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Presidential Documents

Title 3—

The President

Proclamation 8546 of August 13, 2010

75th Anniversary of the Social Security Act

By the President of the United States of America

A Proclamation

On August 14, 1935, President Franklin D. Roosevelt signed into law the Social Security Act to protect ordinary Americans "against the loss of a job and against poverty-ridden old age." Our Nation was entrenched in the Great Depression. Unemployment neared 20 percent, and millions of Americans struggled to provide for themselves and their families. In the midst of all this, the Social Security Act brought hope to some of our most vulnerable citizens, giving elderly Americans income security and bringing us closer to President Roosevelt's vision of a Nation free from want or fear.

As our country recovers from one of the greatest economic challenges since that time, we are grateful for President Roosevelt's perseverance, and for the countless public servants whose efforts produced the Social Security program we know today. Seventy-five years later, Social Security remains a safety net for seniors and a source of resilience for all Americans. Since 1935, it has been expanded to include dependent and survivor benefits, disability insurance, and guaranteed medical insurance for seniors through Medicare. It is a lasting promise that we can retire with dignity and peace of mind, that workers who become disabled can support themselves, and that families who suffer the loss of a loved one will not live in poverty.

My Administration is committed to strengthening our retirement system and protecting Social Security as a reliable income source for seniors, workers who develop disabilities, and dependents. After a lifetime of contributions to our Nation and its economy, Americans have earned this support. The new health care law, the Affordable Care Act, helps sustain this commitment and improves the long-term outlook of the Social Security program. My Administration is dedicated to safeguarding Social Security's promise of retirement with dignity and security.

On the 75th anniversary of the Social Security Act, let us ensure we continue to preserve this program's original purpose in the 21st century. Together, we can give our children and our grandchildren the same protections we have cherished for decades, and in doing so, lead our Nation to a brighter day.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 14, 2010, as the 75th Anniversary of the Social Security Act. I call upon all Americans to observe this day with appropriate ceremonies and activities that recognize the historic legacy of the Social Security Act, as well as the vital safety net it provides to millions of Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of August, in the year of our Lord two thousand ten, and of the Independence of the United States of America the two hundred and thirty-fifth.

[FR Doc. 2010–20594
Filed 8–17–10; 8:45 am]
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Rules and Regulations

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

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2010–0057]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL—027 The History of the Department of Homeland Security System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of updated and reissued system of records pursuant to the Privacy Act of 1974 for the "Department of Homeland Security/ALL—027 The History of the Department of Homeland Security System of Records" from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the "Department of Homeland Security/ALL—027 The History of the Department of Homeland Security System of Records" from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective August 18, 2010.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Historian (202–282–8682), History Office, Office of Policy, Department of Homeland Security, Washington, DC 20528. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register**, (75 FR 7979, February 23, 2010) proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/ALL—027 The History of the Department of Homeland Security System of Records. The DHS/ALL—027 The History of the Department of Homeland Security system of records notice was published concurrently in the **Federal Register**, (75 FR 8092, February 23, 2010) and comments were invited on both the Notice of Proposed Rulemaking (NPRM) and System of Records Notice (SORN).

Public Comments

DHS received no comments on the NPRM or the SORN.

After no public comments were received, the Department will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Add at the end of Appendix C to Part 5, the following new paragraph "51":

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

51. The DHS/ALL—027 The History of the Department of Homeland Security System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL—027 The History of the Department of Homeland Security System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; national security and intelligence activities; and protection of the President of the United States or other individuals pursuant to Section 3056 and 3056A of Title 18. The DHS/ALL—027 The History of the Department of Homeland Security System of Records contain information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12); (f); (g)(1); and (h) pursuant to 5 U.S.C. 552a(j)(2). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), and (k)(5). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (e)(12) (Computer Matching) if the agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the **Federal Register** notice of such establishment or revision.

(j) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(k) From subsection (h) (Legal Guardians) the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

Dated: August 3, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–20477 Filed 8–17–10; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2010–0056]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL—001 Freedom of Information Act and Privacy Act Records System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of an updated and reissued system of records pursuant to the Privacy Act of 1974 for the "Department of Homeland Security/ALL—001 Freedom of Information Act and Privacy Act Records System of Records" from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the "Department of Homeland Security/ALL—001 Freedom of Information Act and Privacy Act Records System of Records" from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective August 18, 2010.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer and Chief Freedom of Information Act Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register**, (74 FR 55484, October 28, 2009) proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/ALL—001 Freedom of Information Act and Privacy Act Records System of Records. The DHS/ALL—001 Freedom of Information Act and Privacy Act Records system of records notice was published concurrently in the **Federal Register**, (74 FR 55572, October 28, 2009) and comments were invited on both the Notice of Proposed Rulemaking (NPRM) and System of Records Notice (SORN).

Public Comments

DHS received four comments on the NPRM and no comments on the SORN.

NPRM

DHS received four comments on the NPRM from two separate commenters. Two comments received were from the same commenter and supported the proposed rule. The remaining two comments were from a separate commenter and also supported the proposed rule.

SORN

No comments were received on the SORN.

After consideration of public comments, the Department will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In Appendix C to Part 5, revise paragraph "1" to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

1. The DHS/ALL—001 Freedom of Information Act and Privacy Act Records System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL—001 Freedom of Information Act and Privacy Act Records System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; national security and intelligence activities;

and protection of the President of the United States or other individuals pursuant to Section 3056 and 3056A of Title 18. The DHS/ALL—001 Freedom of Information Act and Privacy Act Records System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3) and (4): (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12); (f); (g)(1); and (h) pursuant to 5 U.S.C. 552a(j)(2). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3): (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) pursuant to 5 U.S.C. § 552a(k)(1), (k)(2), (k)(3), (k)(5), and (k)(6). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (e)(12) (Computer Matching) if the agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the **Federal Register** notice of such establishment or revision.

(j) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(k) From subsection (h) (Legal Guardians) the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

* * * * *

Dated: August 3, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–20478 Filed 8–17–10; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1423 and 1427

RIN 0560–AH81

Cotton Program Changes for Upland Cotton, Adjusted World Price, and Active Shipping Orders

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule, technical corrections.

SUMMARY: CCC is amending a previous final rule that implemented the 2008 Farm Bill provisions for the cotton program. The correction removes definitions that are no longer used concerning Northern Europe prices for cotton. CCC is also making clarifying changes to the regulations for the cotton program and for CCC-approved warehouses. CCC is clarifying the payment calculation for upland cotton that is eligible for the Economic Adjustment Assistance Program (EAAP) and clarifying the definition of "active shipping order."

DATES: *Effective Date:* August 18, 2010.

FOR FURTHER INFORMATION CONTACT: Timothy Murray, Cotton Program Manager, Commodity Operations Division, Farm Service Agency, USDA, Mail Stop 0533, 1400 Independence Ave, SW., Washington, DC 20250–0572; phone: (202) 720–2121; e-mail: *tim.murray@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: This rule makes three changes to the regulations for the cotton program and to the regulations for CCC-approved warehouses used for cotton. It removes obsolete definitions from the regulations for cotton non-recourse loans and loan deficiency payments. It clarifies the payment calculation for eligible upland cotton to ensure that the EAAP meets the original purpose. It adds definitions to the regulations for CCC-approved warehouses to clarify the information that cotton warehouse operators must report to CCC.

Adjusted World Price—Removing Obsolete Definitions

CCC published a final rule in the **Federal Register** on November 5, 2008 (73 FR 65715–65724) implementing changes to the cotton program required by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill, Pub. L. 110–246), including changes in the way the adjusted world price for cotton is calculated for the purposes of CCC programs. The final rule amended 7 CFR part 1427. That rule inadvertently did not remove several terms that are no longer needed and accordingly, this correcting amendment removes the terms "Northern Europe current price," "Northern Europe forward price," and "Northern Europe price" from § 1427.3 because these terms are no longer used in calculating the adjusted world price.

Because these terms are defined in 7 CFR part 1427, but not used in any of the regulatory provisions in that part, this change should have no impact on cotton producers or on CCC cotton programs.

Upland Cotton—Clarifying Eligible Cotton

The 2008 Farm Bill provides benefits to domestic users of upland cotton through EAAP. EAAP provides a payment of four cents ($0.04) for each pound of upland cotton consumed by an eligible user during the period beginning on August 1, 2008, and ending on July 31, 2012. Beginning on August 1, 2012, the value of the assistance provided will be 3 cents per pound. As specified in 7 CFR 1427.101, the eligible types of cotton for EAAP are baled lint, loose samples that have been re-baled, semi-processed motes, and re-ginned (processed) motes.

Cotton motes are a byproduct of the cotton ginning process. Typically, the motes (the waste product from the initial ginning process) are run back through the gin to capture the residual cotton fiber. In this process, while some usable fiber is recovered, a substantial proportion of the waste product by weight is foreign material, seeds, and non-usable plant parts. The motes are typically reprocessed and cleaned several times before the resulting recovered fiber is of a quality suitable for end use.

The purpose of EAAP is to pay users of upland cotton for usable fiber, and not for foreign material, seeds, and non-usable plant parts. There has been a sudden increase in the number of pounds of semi-processed motes submitted for payment under EAAP raising concern about the amount of the payment and to address that matter this rule amends in the payment calculation for semi-processed and reginned motes in 7 CFR 1427.105.

This rule does not change the payment calculation for baled upland cotton, including lint, loose samples, or reginned motes, that is used without further processing. With respect, however, to unbaled reginned motes used in a continuous manufacturing process, the payment will be determined based on the weight of the reginned motes after final cleaning. It specifies that for semi-processed motes that are of a quality suitable, without further processing, for spinning, paper, or non-woven cotton fabric, the payment will be calculated on 25 percent of the weight (gross weight minus the weight of baling and ties, if baled). This is the consistent with the payment calculations and with market discounts. The discounts provide a reasonable measure for converting cotton-from-motes to the normal baled cotton that is the focus of the statute. Eliminating semi-processed motes entirely on the grounds that the motes are not, because of their limited uses and their nature, really "cotton" within the meaning of the statute was considered. The 20 percent rule implemented in this rule was considered to be a reasonable and proper compromise for treating semi-processed motes as compensable cotton.

A parallel conforming change will be made to the Upland Cotton Domestic User Agreement between CCC and participants in the EAAP. This change will ensure that the EAAP payments are based on the amount of upland cotton actually used for domestic production, and not for unusable waste products.

CCC Warehouses—Clarifying Active Shipping Order

This rule clarifies what an "active shipping order" is because the term is currently used although not defined in 7 CFR part 1423. To clarify the term, this rule adds definitions for "active shipping order," "early shipping order," and "shipping order" to § 1423.3. As defined in this rule, early shipping orders and shipping orders are types of active shipping orders. An active shipping order, as defined in this rule, is an "early shipping order or shipping order, as defined in this section, scheduled for a current cotton warehouse reporting week or for a prior reporting week, but not picked up." An "early shipping order" is a list of bale tag numbers sent to a cotton warehouse operator without transfer of warehouse receipts. A shipping order is a list of bale tag numbers accompanied by the transfer of warehouse receipts.

Operators of CCC-approved cotton warehouses asked for this clarifying change, which relates to the information they are required to report to CCC. This change should not result in any cost to CCC, cotton producers, or the warehouse operators.

Notice and Comment

These regulations are exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553), as specified in section 1601(c) of the 2008 Farm Bill, which requires that these regulations be promulgated and administered without regard to the notice and comment provisions of section 553 of title 5 of the United States Code or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. Therefore, these regulations are issued as final.

Executive Order 12866

The Office of Management and Budget (OMB) designated this final rule as not significant under Executive Order 12866 and, therefore, OMB has not reviewed this rule.

Regulatory Flexibility Act

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

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). The technical corrections identified in this final rule do not change the structure or goals of the program and are considered simply administrative in nature. Therefore, FSA has determined that NEPA does not apply to this final rule and no environmental assessment or environmental impact statement will be prepared.

Executive Order 12372

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

Executive Order 12988

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

Executive Order 13132

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

Executive Order 13175

The policies contained in this rule do not have tribal implications that preempt tribal law.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates as defined by Title II of UMRA for State, local, or tribal governments or for the private sector. In addition, FSA was not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104–121, SBREFA). Therefore, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review and this rule is effective on the date of publication in the **Federal Register**.

Paperwork Reduction Act

The regulations in this rule are exempt from requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 1601 of the 2008 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

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

List of Subjects

7 CFR Part 1423

Agricultural commodities, Honey, Oilseeds, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

7 CFR Part 1427

Cotton, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements, Warehouses.

■ For the reasons discussed above, this rule amends 7 CFR parts 1423 and 1427 as follows:

PART 1423—COMMODITY CREDIT CORPORATION APPROVED WAREHOUSES

■ 1. The authority citation for part 1423 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c.

■ 2. Amend § 1423.3 by adding, in alphabetical order, definitions for "active shipping order," "early shipping order," and "shipping order" to read as follows:

§ 1423.3 Definitions.

Active shipping order means an early shipping order or shipping order, as defined in this section, scheduled for a current cotton warehouse reporting week or for a prior reporting week, but not picked up.

* * * * *

Early shipping order means a list of bale tag numbers sent to a cotton warehouse operator without transfer of warehouse receipts.

* * * * *

Shipping order means a list of bale tag numbers sent to a cotton warehouse operator accompanied by transfer of warehouse receipts.

* * * * *

PART 1427—COTTON

■ 3. The authority citation for part 1427 is revised to read as follows:

Authority: 7 U.S.C. 7231–7236 and 8737; and 15 U.S.C. 714b, and 714c.

§ 1427.3 [Amended]

■ 4. Amend § 1427.3 by removing the definitions for "Northern Europe current price," "Northern Europe forward price," and "Northern Europe price."

■ 5. Amend § 1427.105 as follows:

■ a. Revise paragraphs (a) and (b) to read as set forth below,

■ b. Remove paragraph (c), and

■ c. Redesignate paragraphs (d) and (e) as paragraphs (c) and (d).

§ 1427.105 Payment.

(a) Payments specified in this subpart will be determined by multiplying the payment rate, as specified in § 1427.104, by

(1) In the case of baled upland cotton, whether lint, loose samples or reginned motes, but not semi-processed motes, the net weight of the cotton used (gross weight minus the weight of bagging and ties);

(2) In the case of unbaled reginned motes consumed, without rebaling, for an end use in a continuous manufacturing process, the weight of the reginned motes after final cleaning; and

(3) In the case of semi-processed motes which are of a quality suitable, without further processing, for spinning, papermaking, or manufacture of non-woven cotton fabric, 25 percent of the weight (gross weight minus the weight of bagging and ties, if baled) of the semi-processed motes; provided further, that with respect to semi-processed motes that are used prior to August 18, 2010, payment may be allowed by CCC in its sole discretion at 100 percent of the weight as determined appropriate for a transition of the program to the 25 percent factor.

(b) In all cases, the payment will be determined based on the amount of eligible upland cotton that an eligible domestic user consumed during the immediately preceding calendar month. For the purposes of this subpart, eligible upland cotton will be considered consumed by the domestic user on the date the bale is opened for consumption, or if not baled, the date consumed, without further processing, in a continuous manufacturing process.

* * * * *

Signed in Washington, DC, on August 11, 2010.

Jonathan W. Coppess,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2010–20352 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE307; Special Condition No. 23–247–SC]

Special Conditions: AeroMech, Incorporated; Hawker Beechcraft Corporation, Model B200 and Other Aircraft Listed in Table 1, Approved Model List (AML); Installation of MD835 Lithium Ion Battery

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the AeroMech, Incorporated; Hawker Beechcraft Corporation, model B200 and other part 23 aircraft listed on the AML. These airplanes as modified by AeroMech, Incorporated will have a novel or unusual design feature(s) associated with installation of the Mid-Continent Instruments MD835 Lithium Ion (Li-ion) battery. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* August 9, 2010.

FOR FURTHER INFORMATION CONTACT: James Brady, Regulations and Policy Branch, ACE–111, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Kansas City, MO 64106; telephone (816) 329–4132; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 2009, AeroMech, Incorporated applied for a supplemental type certificate AML for installation of the Mid-Continent Instruments MD835 Li-ion battery in the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML. The AML covers part 23 aircraft that currently use the PS–835 lead-acid emergency battery.

The current regulatory requirements for part 23 airplanes do not contain adequate requirements for the application of Li-ion batteries in airborne applications. AeroMech, Incorporated plans to replace an existing L–3 Communications PS–835 lead-acid emergency battery with a Mid-Continent Instruments MD835 Li-ion battery on part 23 aircraft currently equipped with the PS–835 battery. This type of battery possesses certain failure, operational, and maintenance characteristics that differ significantly from that of the nickel cadmium (Ni-Cd) and lead-acid rechargeable batteries currently approved in other normal, utility, acrobatic, and commuter category airplanes.

Type Certification Basis

Under the provisions of § 21.101, AeroMech, Incorporated must show that the Hawker Beechcraft Corporation B200 and other aircraft listed on the AML, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in the type certificate of each model listed or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The certification basis for each model qualified for this modification is detailed below.

TABLE 1—APPROVED MODEL LIST

Aircraft make	Aircraft model	TCDS	Certification basis for alteration
Aero Vodochody	Ae 270	A58CE Rev 3	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Cessna	441	A28CE	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Cessna	401, 402, 411, 414, 421, 425	A7CE	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Cessna	501, 551	A27CE Rev 17	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Cessna	525, 525A, 525B	A1WI Rev 17	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Cessna	510	A00014WI Rev 3	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Dornier	228–100/–101/–200/–201/–202/–212	A16EU	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Embraer	EMB–500	A59CE Rev 0	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Embraer	EMB–110P1, EMB110P2	A21SO Rev 6	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Hawker Beechcraft	C90, C90A, C90GT, B90, E90, H90, C90GTi	3A20 Rev 69	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.

TABLE 1—APPROVED MODEL LIST—Continued

Aircraft make	Aircraft model	TCDS	Certification basis for alteration
Hawker Beechcraft	200, 200C, 200CT, 200T, B200, B200C, B200CT, B200GT, B200CGT B200T, 300, 300LW, B300, B300C, 1900C, 1900D.	A24CE Rev 98	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Hawker Beechcraft	99, 99A, A99, A99A, B99, C99	A14CE Rev 37	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Hawker Beechcraft	390	A00010WI Rev 8	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Learjet	23	A5CE Rev 10	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
M7 Aerospace	SA226–T, SA226–AT, SA227–AT, SA227–TT	A5SW Rev 26	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Pacific Aerospace	750XL	A50CE Rev 3	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Piaggio	P–180	A59EU Rev 18	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Pilatus	PC–12	A78EU Rev 19	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Socata	TBM 700	A60EU Rev 18	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Twin Commander	680, 680E, 680F, 680FL, 680T, 680V, 680W, 681, 690, 690A, 690B, 690C, 690D, 695, 695A, 695B.	2A4 Rev 47	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.
Viking Air	DHC–6–1/–100/–200/–300	A9EA Rev 13	14 CFR part 23 amdt 23–59, except for 14 CFR 23.1308.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16. The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate AML to modify any other model to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the B200 and other aircraft on the AML must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Novel or Unusual Design Features

The Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML will incorporate the following novel or unusual design features:

AeroMech, Incorporated proposes to replace an existing L–3 Communications PS–835 lead-acid emergency battery with a Mid-Continent Instruments MD835 Li-ion battery on part 23 aircraft currently equipped with the PS–835 battery. This type of battery possesses certain failure, operational characteristics, and maintenance requirements that differ significantly from that of the Ni-Cd and lead-acid rechargeable batteries currently approved in other normal, utility, acrobatic, and commuter category airplanes.

Discussion

The applicable part 21 and part 23 airworthiness regulations governing the installation of batteries in general aviation airplanes, including § 23.1353 were derived from Civil Air Regulations (CAR 3) as part of the recodification that established 14 CFR part 23. The battery requirements, which were identified as § 23.1353, were basically a rewording of the CAR requirements that did not add any substantive technical requirements. An increase in incidents involving battery fires and failures that accompanied the increased use of Ni-Cd batteries in airplanes resulted in rulemaking activities on the battery requirements for business jet and commuter category airplanes. These regulations were incorporated into § 23.1353(f) and (g), which apply only to Ni-Cd battery installations.

The planned use of Li-ion batteries on the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML has prompted the FAA to review the adequacy of the existing battery regulations with respect to that chemistry. As the result of this review, the FAA determines the existing regulations do not adequately address several failure, operational, and maintenance characteristics of Li-ion batteries that could affect safety of the battery installation and the reliability of the electrical power supply on the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML.

Li-ion batteries in general are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and

pressure (*i.e.,* thermal runaway) than their Ni-Cd and lead-acid counterparts. This is especially true for overcharging a Li-ion battery, which will likely result in explosion, fire, or both. Certain types of Li-ion batteries pose a potential safety problem because of the instability and flammability of the organic electrolyte employed by the cells of those batteries. The severity of thermal runaway increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

If the discharge of the cells is below a typical voltage of 3.0 volts on some versions of Li-ion batteries, they will subsequently no longer accept a charge. This loss of capacity may not be detected by the simple voltage measurements commonly available to flight crews as a means of checking battery status, a problem shared with Ni-Cd batteries.

Unlike Ni-Cd and lead-acid cells, some types of Li-ion cells employ electrolytes that are known to be flammable. This material can serve as a source of fuel for an external fire in the event of a breach of the cell container.

The intent of these special conditions is to establish appropriate airworthiness standards for Li-ion battery installations in the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML. These special conditions adopt the following requirements as a means of addressing these concerns:

(1) Inclusion of those sections of § 23.1353 that are applicable to Li-ion batteries.

(2) Inclusion of the flammable fluid fire protection requirements of § 23.863. In the past, this rule was not applied to the batteries of business jet or commuter category airplanes since the electrolytes utilized in lead-acid and Ni-Cd batteries are not considered to be flammable.

(3) Addition of new requirements to address the potential hazards of overcharging and over discharging that are unique to Li-ion battery designs.

(4) Addition of maintenance requirements to ensure that batteries used as spares are maintained in an appropriate state of charge (SOC).

Discussion of Comments

Notice of proposed special conditions No. 23–10–01–SC for the AeroMech, Incorporated; Hawker Beechcraft Corporation, model B200 and other aircraft listed in Table 1, AML was published in the **Federal Register** on June 14, 2010, 75 FR 33553. No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML. Should AeroMech, Incorporated apply at a later date to modify any other model and list the model on the AML, the special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the supplemental type, certification date for the Hawker Beechcraft Corporation, model B200 and those airplanes listed in the AML, as modified by AeroMech, Inc., is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Hawker Beechcraft Corporation, model B200 and other airplanes on the AML modified by AeroMech, Incorporated.

1. SC 23.1353, Storage battery design and installation. The Federal Aviation Administration issues the following Special Conditions (SC), which apply to Beechcraft Corporation, model B200 and all aircraft listed on the AML equipped with MD–835 Li-ion batteries in lieu of the requirements of § 23.1353(a), (b), (c), (d), and (e), Amendment 23–49 through 23–59. Li-ion batteries and battery installations on part 23 airplanes equipped with existing PS–835 batteries must be designed and installed as follows:

(1) Safe cell temperatures and pressures must be maintained during any probable charging or discharging condition, or during any failure of the charging or battery monitoring system not shown to be extremely remote. The Li-ion battery installation must be designed to preclude explosion or fire in the event of those failures.

(2) Li-ion batteries must be designed to preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

(3) No explosive or toxic gasses emitted by any Li-ion battery in normal operation or as the result of any failure of the battery charging or monitoring system, or battery installation not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

(4) Li-ion batteries that contain flammable fluids must comply with the flammable fluid fire protection requirements of § 23.863(a) through (d).

(5) No corrosive fluids or gases that may escape from any Li-ion battery may damage airplane structure or essential equipment.

(6) Each Li-ion battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

(7) Li-ion battery installations must have—

(i) a system to control the charging rate of the battery automatically so as to prevent battery overheating or overcharging, or

(ii) a battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or

(iii) a battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

(8) Any Li-ion battery installation whose function is required for safe operation of the airplane must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the capacity and state of charge (SOC) of the batteries have fallen below levels considered acceptable for dispatch of the airplane.

(9) The Instructions for Continued Airworthiness (ICA) must contain recommended manufacturers maintenance and inspection requirements to ensure that batteries, including single cells, meet a safety function level essential to the aircraft's continued airworthiness.

(i) The ICA must contain operating instructions and equipment limitations in an installation maintenance manual.

(ii) The ICA must contain installation procedures and limitations in a maintenance manual sufficient to ensure that cells or batteries, when installed according to the installation procedures, still meet safety functional levels essential to the aircraft's continued airworthiness. The limitations must identify any unique aspects of the installation.

(iii) The ICA must contain corrective maintenance procedures to functionally check battery capacity at manufacturer's recommended inspection intervals.

(iv) The ICA must contain scheduled servicing information to replace batteries at manufacturers recommended replacement time.

(v) The ICA must contain maintenance and inspection requirements to visually check for a battery and/or charger degradation.

(vi) The ICA must contain instructions that batteries in a rotating stock (spares) that have experienced degraded charge retention capability or other damage due to prolonged storage must be functionally checked at manufacturer's recommended inspection intervals.

(10) If the Li-ion battery application contains software and/or complex hardware, in accordance with AC 20–115B and AC 20–152, they should be developed to the standards of DO–178B for software and DO–254 for complex hardware.

(11) The Li-ion battery must meet TSO C179.

These special conditions are not intended to replace § 23.1353 in the certification basis of the Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML. These special conditions apply only to Li-ion batteries and battery installations. The battery requirements of § 23.1353 would remain in effect for batteries and battery installations on Hawker Beechcraft Corporation, B200 and other aircraft listed on the AML that do not use Li-ion batteries.

Issued in Kansas City, Missouri, on August 9, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20413 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE308; Special Conditions No. 23–248–SC]

Special Conditions: Cirrus Design Corporation Model SF50 Airplane; Function and Reliability Testing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Cirrus Design Corporation SF50 airplane. This airplane will have a novel or unusual design feature(s) associated with the complex design and performance features consistent with larger airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* September 17, 2010.

FOR FURTHER INFORMATION CONTACT: J. Lowell Foster, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–4125; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2008, Cirrus Design Corporation applied for a type certificate for their new model SF50 "Vision" Jet. The SF50 is a low-wing, five-plus-two-place (2 children), single-engine turbofan-powered aircraft. It incorporates an Electronic Flight Information System (EFIS), pressurized cabin, retractable gear, and a V-tail. The turbofan engine is mounted on the upper fuselage/tail cone along the aircraft centerline. It is constructed largely of carbon and fiberglass composite materials. Like other Cirrus products, the SF50 includes a ballistically deployed airframe parachute.

The model SF50 has a maximum operating altitude of 28,000 feet, where it cruises at speeds up to 300 Knots True Air Speed (KTAS). Its V_{MO} will not exceed 0.62 Mach. The maximum takeoff weight will be at or below 6,000 pounds with a range at economy cruise of roughly 1,000 nm. Cirrus intends for the model SF50 to be certified for single-pilot operations under 14 CFR part 91 and 14 CFR part 135 operating rules. The following operating conditions will be included:

- Day and Night VFR.
- IFR.
- Flight Into Known Icing.

Discussion

Before Amendment 3–4, Section 3.19 of Civil Air Regulation (CAR) part 3 required service testing of all airplanes type certificated on or after May 15, 1947. The purpose of the testing was to "ascertain whether there is reasonable assurance that the airplane, its components, and equipment are reliable, and function properly."

Amendment 3–4 to CAR part 3 became effective January 15, 1951, and deleted the service test requirements in Section 3.19 for airplanes of 6,000 pounds maximum weight or less. The introductory text published in Amendment 3–4 explained that most of the significant changes in the amendment stemmed from "the desire for simplification of the rules in this part with respect to the smaller airplanes, specifically those of 6,000 pounds maximum weight or less, which would be expected to be used mainly as personal airplanes." The introductory material also stated the service test requirement was removed for airplanes of 6,000 pounds maximum weight or less because "experience seems to indicate that this rule imposes a burden upon the manufacturers not commensurate with the safety gained." The requirement for Function and Reliability (F&R) testing, and the exception for airplanes of 6,000 pounds or less maximum weight, is now found in 14 CFR part 21, section 21.35(b)(2).

The decision to exempt airplanes of 6,000 pounds maximum weight or less from F&R testing was based on the state of technology envisioned in 1951. At that time, airplanes of 6,000 pounds maximum weight or less were expected to be used mainly as personal airplanes. They used simple, "stand-alone" systems whose failure was more likely to be an inconvenience than an accident. The situation is different today. Technological advances allow airplanes weighing less than 6,000 pounds to be more complex and integrated than some transport airplanes. New part 23 airplanes can incorporate sophisticated equipment not previously used in a part 23 aircraft. Additionally, part 23 airplanes are being used for business and commercial transportation. They should no longer be envisioned mainly as personal airplanes. Therefore, a special condition

to require F&R testing for airplanes weighing 6,000 pounds or less is needed where the level of sophistication is beyond evaluating failures by inspection.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Cirrus Design Corporation must show that the SF50 meets the applicable provisions of part 23, as amended by Amendments 23–1 through 23–59 thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the SF50 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the SF50 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the "Noise Control Act of 1972."

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The SF50 will incorporate the following novel or unusual design features: Complex design and performance features consistent with technologically advanced aircraft over 6,000 pounds.

Discussion of Comments

Notice of proposed special conditions No. 23–10–02–SC for the Cirrus Design Corporation model SF50 airplanes was published in the **Federal Register** on May 28, 2010, 75 FR 29962. No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the SF50. Should Cirrus Design Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on model SF50 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cirrus Design Corporation model SF50 airplanes.

1. Function and Reliability Testing.

Flight tests: In place of 14 CFR 21.35(b)(2), the following applies:

(b) Upon showing compliance with § 21.35, paragraph (a), the applicant must make all flight tests that the Administrator finds necessary—

(2) For aircraft to be certificated under this subchapter to determine whether there is reasonable assurance that the aircraft, its components, and its equipment are reliable and function properly.

Additionally the provisions of § 21.35, paragraphs (c) and (f) then apply:

(c) Each applicant must, if practicable, make the tests described in paragraph (b)(2) of this section upon the aircraft that was used to show compliance with—

(1) Paragraph (b)(1) of this section; and

(2) ____.

(f) The flight tests prescribed in paragraph (b)(2) of this section must include—

(1) For aircraft incorporating turbine engines of a type not previously used in a type certificated aircraft, at least 300 hours of operation with a full complement of engines that conform to a type certificate; and

(2) For all other aircraft, at least 150 hours of operation.

Issued in Kansas City, Missouri, on August 9, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20416 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0762; Directorate Identifier 2010–NM–011–AD; Amendment 39–16393; AD 2010–17–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 767–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 767–300 series airplanes. This AD requires replacing a wire bundle clamp and installing a tetrafluoroethylene (TFE 2X) sleeve. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent chafing of a wiring bundle, which could result in a high-energy short and, consequently, a possible ignition source in the center auxiliary fuel tank.

DATES: This AD is effective September 2, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 2, 2010.

We must receive comments on this AD by October 4, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

We received a report that, during a review of production records, it was found that three airplanes did not receive a tetrafluoroethylene (TFE 2X) sleeve and a clamp as part of an in-production version of the actions required by AD 2009–18–02, Amendment 39–15998 (74 FR 43621, August 27, 2009). The TFE 2X sleeve and the clamp are designed to prevent chafing of a wiring bundle located along a fuel tank boundary structure and to provide additional electrical isolation from the fuel tank. Chafing of that wiring bundle and insufficient electrical isolation, when combined, could result in a high-energy short and, consequently, a potential ignition source in the center auxiliary fuel tank.

Related Rulemaking

AD 2009–18–02 (which applies to certain Model 767–200, –300, –300F, and –400ER series airplanes identified in Boeing Service Bulletins 767–57A0100, Revision 1, dated June 19, 2008, and 767–57A0102, Revision 1, dated November 27, 2007), requires sealing certain fasteners and stiffeners in the fuel tank, changing certain wire bundle clamp configurations on the fuel tank walls, inspecting certain fasteners in the fuel tanks and to determine the method of attachment of the vortex generators, and corrective action if necessary.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 767–57A0122, dated October 22, 2009. The service bulletin describes procedures for installing a tetrafluoroethylene (TFE 2X) sleeve and a wire bundle clamp.

FAA's Determination and Requirements of This AD

No airplanes affected by this AD are on the U.S. Register. We are issuing this AD because the unsafe condition described previously is likely to exist or develop on other products of the same type design that could be registered in the United States in the future. This AD requires the actions described in the service bulletin.

Since no airplanes are affected by this AD, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0762; Directorate Identifier 2010–NM–011–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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–03 The Boeing Company: Amendment 39–16393. Docket No. FAA–2010–0762; Directorate Identifier 2010–NM–011–AD.

Effective Date

(a) This airworthiness directive (AD) is effective September 2, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 767–300 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 767–57A0122, dated October 22, 2009.

Subject

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

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to chafing of the wiring bundle, which could result in a high-energy short and, consequently, a possible ignition source in the center auxiliary fuel tank.

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.

Installation

(g) Within 60 months after the effective date of this AD, install a tetrafluoroethylene (TFE 2X) sleeve and a wire bundle clamp, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0122, dated October 22, 2009.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

Material Incorporated by Reference

(i) You must use Boeing Alert Service Bulletin 767–57A0122, dated October 22, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on July 30, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19707 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0763; Directorate Identifier 2009–NM–253–AD] Amendment 39–16394; AD 2010–17–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A380–800 Series Airplanes

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

ACTION: Final rule; request for comments.

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

A crack has been found on the Droop Nose (DN) 1 master sidestay bracket on the inboard leading edge of an Airbus A380 flight test aeroplane.

In case of failure of the master bracket, the sub-master bracket would be able to sustain limit loads but not ultimate loads.

This condition, if not detected and corrected, could lead to a DN failure which would affect the structural integrity of that wing area.

* * * * *

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

DATES: This AD becomes effective September 2, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 2, 2010.

We must receive comments on this AD by October 4, 2010.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0213, dated October 8, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> A crack has been found on the Droop Nose (DN) 1 master sidestay bracket on the inboard leading edge of an Airbus A380 flight test aeroplane.
>
> In case of failure of the master bracket, the sub-master bracket would be able to sustain limit loads but not ultimate loads.
>
> This condition, if not detected and corrected, could lead to a DN failure which would affect the structural integrity of that wing area.
>
> This AD requires an inspection programme to detect any crack in the DN 1 master sidestay bracket and subsequently in the sub-master bracket, and the accomplishment of the associated corrective actions, as applicable.

Corrective actions include replacing the cracked DN 1 master sidestay bracket, performing a detailed visual inspection for cracks of the associated DN 1 sub-master sidestay bracket, and contacting Airbus if cracks are found on the DN 1 sub-master sidestay bracket. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A380–57–8019, dated August 5, 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 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.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between This AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

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–2010–0763; Directorate Identifier 2009–NM–253–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 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.

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:

2010–17–04 Airbus: Amendment 39–16394. Docket No. FAA–2010–0763; Directorate Identifier 2009–NM–253–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 2, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A380–841, –842, and –861 airplanes, certificated in any category, all serial numbers.

Subject

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

Reason

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

A crack has been found on the Droop Nose (DN) 1 master sidestay bracket on the inboard leading edge of an Airbus A380 flight test aeroplane.

In case of failure of the master bracket, the sub-master bracket would be able to sustain limit loads but not ultimate loads.

This condition, if not detected and corrected, could lead to a DN failure which would affect the structural integrity of that wing area.

* * * * *

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) Before the accumulation of 1,250 total flight cycles or within 30 days after the effective date of this AD, whichever occurs later, do a detailed visual inspection (DVI) of the left-hand and right-hand DN 1 master sidestay brackets to detect cracks, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A380–57–8019, dated August 5, 2009.

(1) If no cracks are found, repeat the inspection at intervals not to exceed 1,250 flight cycles.

(2) If any crack is found, before further flight, replace the cracked DN 1 master sidestay bracket and perform a DVI for cracks of the associated DN 1 sub-master sidestay bracket, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A380–57–8019, dated August 5, 2009.

(i) If no crack is found during the inspection specified in paragraph (g)(2) of this AD, repeat the inspection of the DN 1 master sidestay brackets specified in paragraph (g) of this AD at intervals not to exceed 1,250 flight cycles.

(ii) If any crack is found during the inspection specified in paragraph (g)(2) of this AD, before further flight, contact Airbus and repair in accordance with a method approved by the Manager, International Branch, ANM 116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent).

(h) Replacement of cracked DN 1 master sidestay brackets, as specified in paragraph (g)(2) of this AD, is not a terminating action for the repetitive inspections required by this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(j) Refer to MCAI EASA Airworthiness Directive 2009–0213, dated October 8, 2009; and Airbus Mandatory Service Bulletin A380–57–8019, dated August 5, 2009; for related information.

Material Incorporated by Reference

(k) You must use Airbus Mandatory Service Bulletin A380–57–8019, dated August 5, 2009, as applicable, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS—EANA (Airworthiness Office); 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 562 110 253; Fax +33 562 110 307; e-mail *account.airworth-A380@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on July 30, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19723 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0269; Directorate Identifier 2007–NM–320–AD; Amendment 39–16395; AD 2010–17–05]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD requires replacement of the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays having a ground fault interrupter (GFI) feature, or installation and maintenance of universal fault interrupters (UFIs) using a certain supplemental type certificate. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective September 22, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 22, 2010.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6482; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Model 737–600, –700, –700C, –800, and –900 series airplanes. That NPRM was published in the **Federal Register** on March 11, 2008 (73 FR 12910). That NPRM proposed to require replacement of the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays having a ground fault interrupter (GFI) feature. That NPRM also proposed to require a revision to the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28–AWL–20.

Actions Since NPRM Was Issued

To avoid including redundant requirements in this AD, we have removed the proposed requirement to revise the AWL section of certain maintenance documents to include new repetitive operational checks of the ground fault interrupter (GFI) for all alternating current fuel tank boost pumps to ensure continued functionality of the GFI circuit. This AWL revision is already required by AD 2008–10–10 R1, Amendment 39–16164 (75 FR 1529, January 12, 2010), for certain Model 737–600, –700, –700C, –800, and –900 series airplanes with an original standard airworthiness certificate or original export certificate issued before March 31, 2006. Airplanes with a certificate issued on or after March 31, 2006, must already be compliant with the AWL because those limitations were applicable as part of the airworthiness certification of those airplanes. We have removed the AWL revision requirement from this AD (specified in paragraph (g) of the NPRM), the related requirement to obtain FAA approval for any alternative inspections or inspection intervals (specified in paragraph (h) of the NPRM), and Note 1 of the NPRM. We have re-identified subsequent paragraphs accordingly.

Boeing has issued Revision 1, dated May 28, 2009, to Boeing Alert Service Bulletin 737–28A1201. (The NPRM referred to Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007.) We have revised paragraphs (c) and (f) of this AD to reference Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, and have added new paragraph (g) of this AD to provide credit (with certain provisions) for Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007. Revision 1 corrects the wiring configuration group for some airplanes, adds and corrects some figures and references and adds a resistance check between the GFI relay's mounting flange and a point on the panel cross member of the P91 and P92 panels. Revision 1 also adds a resistance measurement for airplanes that have accomplished the actions specified in Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007.

Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, refers to Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62, both Revision 5, both dated May 25, 2009, as additional sources of guidance for accomplishing a resistance check between the GFI relay's mounting flange and a point on the panel cross member of the P91 and P92 panels. Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, refers to Honeywell Service Bulletin 1151932–24–61, Revision 5, dated May 25, 2009, as an additional source of guidance for replacing the power control relays in the P91 power distribution panel. Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, also refers to Honeywell Service Bulletin 1151934–24–62, Revision 5, dated May 25, 2009, as an additional source of guidance for replacing the power control relays in the P92 power distribution panels.

Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, references an incorrect date for Revision 5 of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62. Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, states January 22, 2009, for Revision 5 of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62. The correct date for Revision 5 of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62 is May 25, 2009.

Comments

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

Support for the Proposed AD

Ermelinda Villagomez, a private citizen, supports the NPRM.

Request To Revise References of Part Numbers

Continental Airlines (CAL) requests that we prevent future part number problems by removing reference to the part number of the panel assemblies and adding reference to the GFI relay part number that is installed. CAL states that there is a possibility that P91 and P92 panels can have internal components and wiring modified without the FAA's knowledge or approval.

We infer that CAL is requesting that references to the part numbers be changed due to concerns about the need for AMOC requests. We agree that references to the part numbers need to be changed from the panel part numbers to the GFI relay part number. Otherwise, AMOC approval would be needed for any change to the P91 and P92 panels. The NPRM did not reference panel part numbers, but referenced Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007, which did reference those panel part numbers. Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, also references those panel part numbers. We have revised paragraph (f) of this AD to reference the part number of the GFI relay that is installed at certain relay positions in the P91 and P92 panels.

Requests To Cite Later Revision of Honeywell Service Bulletins

Boeing, CAL, SkyEurope Airlines, and Japan Airlines request that we revise Note 2 of the NPRM to reference the current revision (Revision 4, dated March 25, 2008; or Revision 3, dated June 22, 2007; respectively), of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62. Boeing requests that we reference the latest revised Honeywell service bulletins and notes that the latest revisions were being submitted for FAA approval. Japan Airlines also notes that the original issue, dated November 10, 2006, of the Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62, could not be applied to actual airplanes due to a parts interference problem.

We concur with the intent of the requests. Since the four commenters submitted their comments, Honeywell has issued Revision 5, dated May 25, 2009, of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62. Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62, both Revision 5, both dated May 25, 2009, were described previously in the "Actions Since NPRM Was Issued" section of this AD. We have revised Note 1 of this AD (Note 2 of the NPRM) to reference Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62, both Revision 5, both dated May 25, 2009.

Request To Justify Need for Rulemaking

AirTran Airways (AirTran) requests that we confirm that adequate analysis was performed to justify this rulemaking. AirTran believes that fuel pump arcing issues have been addressed by current rulemaking and that there is no need to retrofit airplanes with GFI relays. AirTran references AD 2002–19–52, Amendment 39–12900 (67 FR 61253, September 30, 2002) (for all Model 737–600, –700, –700C, –800, and –900 series airplanes; Model 747 series airplanes; and Model 757 series airplanes), as an example of an AD issued against the fuel pump motor-impeller assembly to ensure that the wire routing mitigates arcing. AirTran also states that in order for an ignition source to enter the fuel tank, it believes significant arcing would have to occur on one or more phases of the circuit to burn through the motor-impeller assembly and through the housing. AirTran asserts that an arc of this significance would trip the currently installed circuit breakers without the need for a GFI relay.

We disagree with AirTran's assessment. We have examined the underlying safety issues involved in fuel tank explosions as detailed in the Discussion section in the NPRM. We have determined that an additional layer of protection is needed to mitigate potential ignition sources within the fuel tanks due to certain electrical failures internal to the fuel pumps. Standard circuit breakers are not designed to detect arcing events nor are they able to trip in time to protect the fuel pumps under these arcing conditions. The primary function of the circuit breakers is to protect the wiring. We have not changed the AD in this regard.

Requests To Permit Installation of Supplemental Type Certificate (STC) ST02076LA as a Means of Compliance

TDG Aerospace, Southwest Airlines, CAL, and the Air Transport Association (ATA) on behalf of its member American Airlines, request that we allow the installation of TDG Aerospace STC ST02076LA as a means of compliance for providing electrical fault protection for the center override boost pumps. All four commenters state that the universal fault interrupter (UFI) has been demonstrated and approved as equivalent to or better than the protection provided by a standard GFI relay.

TDG Aerospace points out that UFIs have been approved as alternative method of compliance (AMOCs) for paragraph (b) of AD 2002–24–51, Amendment 39–12992 (68 FR 10, January 2, 2003) (for all Model 737–600, –700, –700C, –800, and –900 series airplanes; Model 747 series airplanes; and Model 757 series airplanes), and paragraph (a) of AD 2001–08–24, Amendment 39–12201 (66 FR 20733, April 25, 2001) (for all Model 737 series airplanes). TDG Aerospace adds that, for airplanes with STC ST02076LA installed, mandating the installation of GFI relays at center override boost pump positions R54 and R55 duplicates protection, adds unnecessary costs, and could generate nuisance events in the UFI system. TDG also points out that referencing STC ST02076LA in the AD would save the FAA and operators time and effort spent on coordinating multiple AMOC requests.

We agree with the commenters' requests. We have evaluated the STC and agree that installing and maintaining the TDG Aerospace UFI using STC ST02076LA is an acceptable alternative means of addressing the unsafe condition identified in this AD. We have revised paragraph (f) of this AD to require replacement of the power control relays in accordance with Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, or installation of the STC.

Request To Extend Proposed Compliance Time for Installation

The ATA, on behalf of its member American Airlines, requests that we extend the compliance time for replacing the power control relays from 60 months to 72 months. American Airlines states that this extension would allow operators to align the modification with the industry-standard heavy maintenance visit interval of 72 months. American Airlines also points out that a 60-month compliance time will increase out-of-service time due to unscheduled modifications.

We disagree with this request. In developing an appropriate compliance time for installing new fuel pump control GFI relays, we considered the safety implications and the practical aspect of accomplishing the installation within a period of time that corresponds to the normal scheduled maintenance

for most affected operators. In consideration for these items, we have determined that a 60-month compliance time will ensure an acceptable level of safety and allow the installation to be done during scheduled maintenance intervals for most affected operators. However, under the provisions of paragraph (h) of this AD, we will consider requests for approval of an AMOC if sufficient data are submitted to substantiate that the request would provide an adequate level of safety. We have not changed the AD in this regard.

Request To Reference Other Maintenance Procedures

CAL requests that we revise the reference to Airworthiness Limitation (AWL) 28–AWL–20. CAL notes that the maintenance documentation for AWL 28–AWL–20 is too generic to show each specific requirement as detailed in the airplane's center tank pump override relay configuration.

We disagree with CAL's assertion that AWL 28–AWL–20 is insufficient. That AWL identifies a section of the airplane maintenance manual (AMM) as a document that provides appropriate guidance for doing GFI operational checks. However, to avoid including redundant requirements in this AD, we have removed the proposed requirement to revise the AWL section of certain maintenance documents to include AWL 28–AWL–20 (which would require repetitive operational checks of the GFI for all alternating current fuel tank boost pumps to ensure continued functionality of the GFI circuits). This AWL revision is already required by AD 2008–10–10 R1, Amendment 39–16164, for certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes with an original standard airworthiness certificate or original export certificate issued before March 31, 2006. Airplanes with a certificate issued on or after March 31, 2006, must already be compliant with the AWL revision because those limitations were applicable as part of the airworthiness certification of those airplanes. We have removed the AWL revision requirement from this AD (which was specified in paragraph (g) of the NPRM) and re-identified subsequent paragraphs.

Request To Clarify the Use of GFIs

CAL questions the use of GFIs for protection against arcing conditions identified in the NPRM. CAL contends that the use of arc fault circuit interrupters (AFCIs) is the appropriate device to protect pumps from damage due to arcing. CAL states that its understanding of the GFI is that GFIs are used to disconnect a circuit whenever it detects that the current flow is not balanced. When a ground fault above a prescribed threshold level and time duration is detected, the GFI relay is tripped. CAL also states that electrical arcing (that the NPRM actions are supposed to prevent) is a localized, high-energy event and the GFI relay is not an AFCI that is designed to prevent fires by detecting those electrical arcs and disconnecting power before the arc starts a fire.

We find that we need to clarify the use of the GFI relay. We have determined that the GFI is an appropriate method to protect the fuel pumps from other electrical faults, and from damage caused by electrical arcs that result from wiring coming in contact with the housing of the fuel pump. The proposed AFCI are susceptible to nuisance tripping. These circuit breakers are not yet recommended for use in airplane systems, especially systems that perform functions essential to the safe flight and landing of the aircraft. However, under the provisions of paragraph (h) of this AD, we will consider requests to approve different solutions if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed the AD in this regard.

Requests To Consider Other Methods of Compliance

CAL is concerned that the FAA did not give enough attention to solutions other than that specified in Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007. TDG Aerospace is curious why the NPRM did not simply state the requirement for GFI at the six fuel pump positions and then list the approved solutions for each position.

We infer that CAL and TDG Aerospace request that we evaluate solutions from other companies to address the unsafe condition addressed by this AD. We evaluated the proposed solution from Boeing and verified that it addresses the unsafe condition. In addition, as explained under the previous header "Requests to Permit Installation of Supplemental Type Certificate (STC) ST02076LA as a Means of Compliance," we agree that installing and maintaining the TDG Aerospace UFI in accordance with that STC is an acceptable means of addressing the unsafe condition identified in this AD.

We cannot address all possible solutions in an AD in a timely manner. It is more practical from a workload and cost-effectiveness standpoint to make the AD applicable generally to the affected fleet and to deal with other possible solutions individually via the AMOC process. Under the provisions of paragraph (h) of this AD, we will consider requests to approve different solutions if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed the AD in this regard.

Request To Correct a Typographical Error

Boeing requests that we correct a typographical error. Boeing states that paragraph (h) of the NPRM references paragraph (j) instead of paragraph (i) of the NPRM, and points out that there is no paragraph (j) in the NPRM.

We agree. However, as explained previously, we have removed paragraph (h) of the NPRM. No further change to the AD is necessary in this regard.

Explanation of Change to Applicability

We have revised this AD to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

Conclusion

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

Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from $80 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this AD would affect 754 products of U.S. registry. The following table provides the estimated costs, at an average labor rate of $85 per hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per product	Fleet cost
Installation of GFI relays	8	$11,010	$11,690	$8,814,260

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–05 The Boeing Company: Amendment 39–16395. Docket No. FAA–2008–0269; Directorate Identifier 2007–NM–320–AD.

Effective Date

(a) This airworthiness directive (AD) is effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Replacement or Installation

(f) Within 60 months after the effective date of this AD, do the actions required in paragraph (f)(1) or (f)(2) of this AD.

(1) Replace the power control relays that are located in the R18, R19, R20, R21, R54, and R55 positions in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays, part number KDAG–X4F–001, having a ground fault interrupter (GFI) feature, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009.

(2) Install and maintain TDG Aerospace universal fault interrupters (UFIs) using Supplemental Type Certificate ST02079LA.

Note 1: Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, refers to Honeywell Service Bulletin 1151932–24–61 and Honeywell Service Bulletin 1151934–24–62, both Revision 5, both dated May 25, 2009, as additional sources of guidance for replacement of the power control relays in the P91 and P92 power distribution panels.

(g) Actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007, are acceptable for compliance with the requirements of paragraph (f) of this AD, provided that Revision 5 of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62, both dated May 25, 2009, are used as additional sources of guidance.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6482; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

Material Incorporated by Reference

(i) You must use Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

(4) You may also review copies of the service information that is incorporated by

reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on July 27, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19696 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0806; Directorate Identifier 2010–SW–071–AD; Amendment 39–16397; AD 2010–15–51]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A119 and AW119 MKII Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2010–15–51, which was sent previously to all known U.S. owners and operators of Agusta S.p.A. (Agusta) Model A119 and AW119 MKII helicopters by individual letters. This AD requires, within 5 hours time-in-service (TIS), and thereafter at intervals not to exceed 50 hours TIS, removing the cover of each pilot and co-pilot control box assembly (control box) and inspecting each rotary variable differential transformer (RVDT) control gear locking pin (locking pin) for proper position. If a locking pin is recessed, extended, or missing, this AD requires replacing the control box before further flight. This amendment is prompted by a report that an RVDT locking pin that was installed on a Model AW119 MKII helicopter moved from its proper position, resulting in loss of connectivity of the pilot and co-pilot throttle controls. The actions specified by this AD are intended to prevent the RVDT locking pin from moving from its proper position, which could lead to loss of manual engine throttle control, and subsequent loss of control of the helicopter.

DATES: Effective September 2, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD 2010–15–51, issued on July 16, 2010, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 2, 2010.

Comments for inclusion in the Rules Docket must be received on or before October 18, 2010.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

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

You may get the service information identified in this AD from Agusta, Via Giovanni Agusta, 520 21017 Cascina Costa di Samarate (VA), Italy, telephone 39 0331–229111, fax 39 0331–229605/222595, or at *http://customersupport.agusta.com/technical_advice.php.*

Examining the Docket: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–4389, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On July 16, 2010, we issued Emergency AD 2010–15–51 for the specified model helicopters, which requires, within 5 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, removing the cover of the pilot and co-pilot control boxes and inspecting each RVDT locking pin for proper position. If a locking pin is recessed, extended, or missing, the AD requires replacing the control box before further flight. That action was prompted by a report that an RVDT locking pin that was installed on a Model AW119 MKII helicopter moved from its proper position, resulting in loss of connectivity of the pilot and co-pilot throttle controls. Investigation revealed that the pilot's locking pin had moved from its proper position, which resulted in the loss of the co-pilot throttle control. This condition, if not detected and corrected, could result in loss of manual engine throttle control, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, notified us that an unsafe condition may exist on Agusta Model A119 and AW119 MKII helicopters. EASA advises of a nonconformity of certain control boxes, unseating of a locking pin, and loss of the pilot and co-pilot engine throttle synchronicity. EASA states this condition, if not detected and corrected, could lead to the loss of manual engine throttle control and consequent loss of control of the helicopter.

Agusta has issued Alert Bollettino Tecnico No. 119–39, dated July 2, 2010 (ABT). The ABT describes procedures for inspecting the pilot and co-pilot control box for correct positioning of the locking pin. The ABT states that the investigation is still in progress to find a solution to the malfunction. The instructions in the ABT are prescribed as precautionary pending future corrective action. EASA classified this ABT as mandatory and issued Emergency AD 2010–0142–E, dated July 5, 2010, to ensure the continued airworthiness of these helicopters. This AD differs from EASA Emergency AD No. 2010–0142–E in that we use the term "hours time-in-service" rather than "flight hours." Also, we clarify the inspection requirements and do not use the calendar date of August 31, 2010 as a required compliance time.

These helicopter models are manufactured in Italy and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, EASA has kept the FAA informed of the situation described. We have examined the findings of EASA, reviewed all available information, and determined that AD action is necessary for products of these

type designs that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A119 and AW119 MKII helicopters of the same type design, we issued Emergency AD 2010–15–51 to detect a missing or improperly fitted RVDT locking pin, which could lead to loss of manual engine throttle control, and subsequent loss of control of the helicopter. The AD requires, within 5 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, removing the cover of the pilot and co-pilot control boxes and inspecting the locking pins for proper position. If the locking pin is recessed or extended in excess of 2.0 millimeters from the face of the pin bore, or missing, before further flight, replacing the control box with an airworthy control box that has been inspected in accordance with paragraph (a) of the AD is required. Replacing the control box does not constitute terminating action for the inspection requirements of the AD. The actions must be accomplished in accordance with specified portions of the ABT described previously.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. The actions previously described are required within short compliance times: 5 hours TIS and then at intervals not to exceed 50 hours TIS for the initial and repetitive inspections and before further flight for any required control box replacement; therefore, this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on July 16, 2010 to all known U.S. owners and operators of Agusta Model A119 and AW119 MKII helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

We estimate that this AD will affect 32 helicopters of U.S. registry. Each inspection of both control boxes will take 1½ hours and each control box replacement will take approximately 8 work hours (2 per helicopter). The average labor rate is $85 per work hour. It will cost approximately $12,852 for a pilot control box and $11,768 for a co-pilot control box. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $835,440 ($26,108 per helicopter, assuming 1 inspection of each control box and replacing both control boxes on each helicopter).

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0806; Directorate Identifier 2010–SW–071–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Regulatory Findings

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

For the reasons discussed above, I certify that the 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 an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2010–15–51 Agusta S.p.A.: Amendment 39–16397. Docket No. FAA–2010–0806; Directorate Identifier 2010–SW–071–AD.

Applicability: Model A119 and AW119 MKII helicopters, with pilot control box assembly (control box), part number (P/N) 109–0010–81–103, and co-pilot control box, P/N 109–0010–81–107, installed, certificated in any category.

Compliance: Required as indicated.

To detect a missing, or improperly fitted, engine rotary variable differential transformer (RVDT) control gear locking pin (locking pin), P/N MS16555–628, which could lead to loss of manual engine throttle control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 5 hours time-in-service (TIS) unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS, remove the cover of the pilot and co-pilot control boxes and inspect the locking

pins for proper position by following the Compliance Instructions, Parts I and II, paragraphs 2. through 4.1 for the pilot control box and paragraphs 5. through 7.1 for the co-pilot control box, in Agusta Alert Bollettino Tecnico No. 119–39, dated July 2, 2010.

(b) If the locking pin is recessed or extended in excess of 2.0 millimeters from the face of the pin bore, or missing, before further flight, replace the control box with an airworthy control box that has been inspected in accordance with paragraph (a) of this AD. Replacing the control box does not constitute terminating action for the inspection requirements of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, FAA, ATTN: Rao Edupuganti, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–4389, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(d) The Joint Aircraft System/Component (JASC) Code is 6700: Rotors Flight Control.

(e) The inspections shall be done in accordance with the specified portions of Agusta Alert Bollettino Tecnico No. 119–39, dated July 2, 2010. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, Via Giovanni Agusta, 520 21017 Cascina Costa di Samarate (VA), Italy, telephone 39 0331–229111, fax 39 0331–229605/222595, or at *http://customersupport.agusta.com/technical_advice.php.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(f) This amendment becomes effective on September 2, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD 2010–15–51, issued July 16, 2010, which contained the requirements of this amendment.

Note: The subject of this AD is addressed in European Aviation Safety Agency AD 2010–0142–E, dated July 5, 2010.

Issued in Fort Worth, Texas, on August 4, 2010.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–19816 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0329 Directorate Identifier 2010–CE–016–AD; Amendment 39–16400; AD 2010–17–08]

RIN 2120–AA64

Airworthiness Directives; Various Aircraft Equipped With Rotax Aircraft Engines 912 A Series Engines

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) 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:

Due to high fuel pressure, caused by exceeding pressure in front of the mechanical fuel pump (*e.g.* due to an electrical fuel pump), in limited cases a deviation in the fuel supply could occur. This can result in exceeding of the fuel pressure and might cause engine malfunction and/or massive fuel leakage.

We are issuing this AD to prevent the pump from causing excessive fuel pressure, which could result in engine malfunction or a massive fuel leak. These conditions could cause loss of control of the airplane or a fire. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective September 22, 2010.

On September 22, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 8, 2010 (75 FR 32315). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Due to high fuel pressure, caused by exceeding pressure in front of the mechanical fuel pump (*e.g.* due to an electrical fuel pump), in limited cases a deviation in the fuel supply could occur. This can result in exceeding of the fuel pressure and might cause engine malfunction and/or massive fuel leakage.

Non-compliance with these instructions could result in engine damages, personal injuries or death.

The MCAI requires replacing the affected fuel pumps with a different part number fuel pump.

The MCAI applies to all versions of Bombardier-Rotax GmbH 912 A, 912 F, and 912 S series engines. Versions of the 912 F series and 912 S series engines are type certificated in the United States. However, the Model 912 A series engine installed in various aircraft does not have an engine type certificate; instead, the engine is part of the aircraft type design.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 60 products of U.S. registry. We also estimate that it will take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $650 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $41,550 or $692.50 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–08 Various Aircraft: Amendment 39–16400; Docket No. FAA–2010–0329; Directorate Identifier 2010–CE–016–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all serial numbers of the following aircraft, equipped with a Rotax Aircraft Engines 912 A series engine with fuel pumps, part numbers (P/Ns) 892230, 892232, 892540 (standard version) or P/Ns 892235, 892236, 892545 (version including flexible fuel line) installed, and certificated in any category:

Type certificate holder	Aircraft model	Engine model
Aeromot-Industria Mecanico Metalurgica Ltda	AMT–200	912 A2.
Diamond Aircraft Industries	HK 36 R "SUPER DIMONA"	912 A.
Diamond Aircraft Industries	HK 36 TS	912 A3.
GmbH	HK 36 TC	912 A3.
Diamond Aircraft Industries Inc	DA20–A1	912 A3.
HOAC-Austria	DV 20 KATANA	912 A3.
Iniziative Industriali Italiane S.p.A	Sky Arrow 650 TC	912 A2.
SCHEIBE-Flugzeugbau GmbH	SF 25C	912 A2 or 912 A3.

Subject

(d) Air Transport Association of America (ATA) Code 73: Engine Fuel and Control.

Reason

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

Due to high fuel pressure, caused by exceeding pressure in front of the mechanical fuel pump (e.g., due to an electrical fuel pump), in limited cases a deviation in the fuel supply could occur. This can result in exceeding of the fuel pressure and might cause engine malfunction and/or massive fuel leakage.

Non-compliance with these instructions could result in engine damages, personal injuries or death.

We are issuing this AD to prevent the pump from causing excessive fuel pressure, which could result in engine malfunction or a massive fuel leak. These conditions could cause loss of control of the airplane or a fire. The MCAI requires replacing the affected fuel pumps with a different part number fuel pump.

Actions and Compliance

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

(1) Within the next 25 hours time-in-service after September 22, 2010 (the effective date of this AD), replace fuel pump P/N 892230, 892232, 892540, 892235, 892236, or 892545 with an FAA-approved fuel pump that does not have one of the P/Ns referenced above following Rotax Aircraft Engines Mandatory Service Bulletin SB–912–053, dated April 13, 2007.

(2) As of September 22, 2010 (the effective date of this AD) do not install fuel pump P/N 892230, 892232, 892540, 892235, 892236, or 892545, on any airplane.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI requires replacing an affected fuel pump with fuel pump P/N 892542 or 892546. This AD

requires replacement of an affected fuel pump with an FAA-approved fuel pump that does not have one of the P/Ns referenced in paragraph (f)(1) of this AD.

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI EASA AD No.: 2007–0060R1–E, dated April 20, 2007; and Rotax Aircraft Engines Service Bulletin SB–912–053, dated April 13, 2007, for related information.

Material Incorporated by Reference

(i) You must use Rotax Aircraft Engines Mandatory Service Bulletin SB–912–053, dated April 13, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact BRP-Powertrain GMBH & Co KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: (+43) (0) 7246 601–0; fax: (+43) (0) 7246 6370; Internet: *http://www.rotax.com.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

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

Issued in Kansas City, Missouri, on August 5, 2010.

Brian A. Yanez,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19840 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0278; Directorate Identifier 2009–NM–255–AD; Amendment 39–16399; AD 2010–17–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–223, –321, –322, and –323 Airplanes

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

ACTION: Final rule.

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

During accomplishment of Damage Tolerant—Airworthiness Limitation Item task 712106–01–01 from A330 ALS Part 2, an A330 operator found a Fluorescent Penetrant Inspection (FPI) indication in the head of the shank filet radius in one of the Pratt & Whitney (PW) forward (FWD) engine mount pylon bolts.

* * * * *

Dual-bolt fractures could lead to inability for mount assembly to sustain loads which may lead to an engine mount failure and consequently to engine separation from the aeroplane during flight, which would constitute an unsafe condition.

* * * * *

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

DATES: This AD becomes effective September 22, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 22, 2010.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 2, 2010 (75 FR 16696). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During accomplishment of Damage Tolerant—Airworthiness Limitation Item task 712106–01–01 from A330 ALS Part 2, an A330 operator found a Fluorescent Penetrant Inspection (FPI) indication in the head of the shank filet radius in one of the Pratt & Whitney (PW) forward (FWD) engine mount pylon bolts.

Investigation has confirmed that this FPI indication was due to a quality manufacturing process issue which led to a bolt non-conformance and is also applicable to aftward (AFT) mount pylon bolts.

Dual-bolt fractures could lead to inability for mount assembly to sustain loads which may lead to an engine mount failure and consequently to engine separation from the aeroplane during flight, which would constitute an unsafe condition.

This AD requires a one time detailed visual inspection of the FWD and AFT mount pylon bolts on all A330 aeroplanes fitted with PW engines (8 bolts per engine) and replacement of any affected bolt.

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

Comments

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

Requests To Refer to the Latest Pratt & Whitney Service Information

Delta Airlines and Pratt & Whitney—Cheshire Engine Center request that we revise the NPRM to refer to Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009, for determining suspect bolts, rather than Pratt & Whitney Service Bulletin PW4G–100–71–35, dated March 14, 2008, which was referenced in the NPRM as the appropriate source for determining suspect bolts. The

commenters state that Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009, corrected suspect bolt serial numbers, and the serial number range of suspect bolts was reduced.

We agree with the requests. Since fewer parts are listed and no parts are added in Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009, we have revised paragraph (h) of this AD to refer to Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009, as the appropriate source for determining suspect bolts. We have also revised paragraph (h) of this AD to provide credit to operators that used Pratt & Whitney Service Bulletin PW4G–100–71–35, dated March 14, 2008, to determine suspect bolts before the effective date of this AD.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 41 products of U.S. registry. We also estimate that it will take about 7 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $16,672 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $707,947, or $17,267 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–07 Airbus: Amendment 39–16399. Docket No. FAA–2010–0278; Directorate Identifier 2009–NM–255–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–223, –321, –322, and –323 airplanes; certificated in any category; all manufacturer serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 71: Powerplant.

Reason

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

During accomplishment of Damage Tolerant—Airworthiness Limitation Item task 712106–01–01 from A330 ALS Part 2, an A330 operator found a Fluorescent Penetrant Inspection (FPI) indication in the head of the shank filet radius in one of the Pratt & Whitney (PW) forward (FWD) engine mount pylon bolts.

Investigation has confirmed that this FPI indication was due to a quality manufacturing process issue which led to a bolt non-conformance and is also applicable to aft ward (AFT) mount pylon bolts.

Dual-bolt fractures could lead to inability for mount assembly to sustain loads which may lead to an engine mount failure and consequently to engine separation from the aeroplane during flight, which would constitute an unsafe condition.

This AD requires a one time detailed visual inspection of the FWD and AFT mount pylon bolts on all A330 aeroplanes fitted with PW engines (8 bolts per engine) and replacement of any affected bolt.

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) Do a detailed inspection to determine the part number, serial number, and lot number of the forward and aft mount pylon bolts on both engines, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–71–3020, dated June 10, 2009. Inspect at the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Before the accumulation of 8,000 total flight cycles or 24,000 total flight hours since first flight of the airplane, whichever occurs first.

(2) Within 24 months after the effective date of this AD.

(h) If the identified part number, serial number, or lot number corresponds to suspect bolts identified in Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009, before further flight remove the affected bolt and replace with a serviceable bolt, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–71–3020, dated June 10, 2009. Identifying part numbers, serial numbers or lot numbers before the effective date of this AD according to Pratt & Whitney Service Bulletin PW4G–100–71–35, dated March 14, 2008, is considered acceptable for compliance with the corresponding action specified in this AD.

(i) If the bolt part number, serial number, or lot number is unreadable, before further flight, remove the affected bolt and replace with a serviceable bolt, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–71–3020, dated June 10, 2009.

(j) As of the effective date of this AD, no person may install any forward or aft mount pylon bolt on any airplane, unless this bolt has been identified as a non-suspect bolt, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–71–3020, dated June 10, 2009.

(k) Although Airbus Mandatory Service Bulletin A330–71–3020, dated June 10, 2009, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: Although the MCAI or service information tells you to submit information to the manufacturer, paragraph (k) of this AD specifies that such submittal is not required.

Other FAA AD Provisions

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

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

Related Information

(m) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0240, dated November 5, 2009; Airbus Mandatory Service Bulletin A330–71–3020, dated June 10, 2009; and Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009; for related information.

Material Incorporated by Reference

(n) You must use Airbus Mandatory Service Bulletin A330–71–3020, excluding Appendix 1, dated June 10, 2009; and Pratt & Whitney Service Bulletin PW4G–100–71–35, Revision 1, dated December 4, 2009; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; e-mail *airworthiness.A330–A340@airbus.com*; Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on August 4, 2010.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19839 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0583 Directorate Identifier 2010–CE–028–AD; Amendment 39–16401; AD 2010–17–09]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–12/47E Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) 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:

Reports have been received indicating that, if the power control friction wheel is tightened, the reverse thrust latch may stick and subsequently allow the Power Control Lever (PCL) to be inadvertently retarded aft of the idle detent.

This condition, if not corrected, could result in undesired reverse thrust activation which, especially during approach, could result in reduced control of the aeroplane.

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

DATES: This AD becomes effective September 22, 2010.

On September 22, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 10, 2010 (75 FR 32863). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Reports have been received indicating that, if the power control friction wheel is tightened, the reverse thrust latch may stick and subsequently allow the Power Control Lever (PCL) to be inadvertently retarded aft of the idle detent.
>
> This condition, if not corrected, could result in undesired reverse thrust activation which, especially during approach, could result in reduced control of the aeroplane.
>
> For the reason described above, this AD requires an inspection of the PCL reverse thrust latch and the accomplishment of corrective actions as necessary.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 80 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $6,800 or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 9 work-hours and require parts costing $100, for a cost of $865 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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 DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–09 Pilatus Aircraft Ltd.: Amendment 39–16401; Docket No. FAA–2010–0583; Directorate Identifier 2010–CE–028–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model PC–12/47E airplanes, manufacturer serial numbers (MSN) 1001 and MSN 1003 through 1140, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 76: Engine Controls.

Reason

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

Reports have been received indicating that, if the power control friction wheel is tightened, the reverse thrust latch may stick and subsequently allow the Power Control Lever (PCL) to be inadvertently retarded aft of the idle detent.

This condition, if not corrected, could result in undesired reverse thrust activation which, especially during approach, could result in reduced control of the aeroplane.

For the reason described above, this AD requires an inspection of the PCL reverse thrust latch and the accomplishment of corrective actions as necessary.

Actions and Compliance

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

(1) Within 30 days after September 22, 2010 (the effective date of this AD), inspect the power control lever reverse thrust latch handle for free movement following the accomplishment instructions in paragraph 3.A. of Pilatus Aircraft Ltd. Service Bulletin No: 76–002, dated October 15, 2009.

(2) If during the inspection required in paragraph (f)(1) of this AD you determine the reverse thrust latch sticks or the idle detent is not present, do the following actions:

(i) Before further flight, insert Temporary Revision No. 12 to PC–12/47E Pilot's Operating Handbook, dated October 15, 2009, into the normal procedures section of the aircraft flight manual (AFM).

(ii) Within 12 months after September 22, 2010 (the effective date of this AD), modify the engine control console assembly following the accomplishment instructions in paragraph 3.B. of Pilatus Aircraft Ltd. Service Bulletin No: 76–002, dated October 15, 2009.

(iii) Before further flight after the modification required by paragraph (f)(2)(ii) of this AD, remove Temporary Revision No. 12 to PC–12/47E Pilot's Operating Handbook, dated October 15, 2009, from the AFM.

(3) If during the inspection specified in paragraph (f)(1) of this AD you determine the reverse thrust latch moves freely and the idle detent is present, no further action is required.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2010–0093, dated May 20, 2010; Pilatus Aircraft Ltd. Service Bulletin No: 76–002, dated October 15, 2009; and Temporary Revision No. 12 to PC–12/47E Pilot's Operating Handbook, dated October 15, 2009, for related information.

Material Incorporated by Reference

(i) You must use Pilatus Aircraft Ltd. Service Bulletin No: 76–002, dated October 15, 2009; and Temporary Revision No. 12 to PC–12/47E Pilot's Operating Handbook, dated October 15, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact PILATUS AIRCRAFT LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 62 08; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com*; e-mail: *SupportPC12@pilatus-aircraft.com.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

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

Issued in Kansas City, Missouri, on August 5, 2010.

Brian A. Yanez,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19821 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0041; Directorate Identifier 2009–NM–218–AD; Amendment 39–16392; AD 2010–17–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 Airplanes, Model A340–211, –212, –213, –311, –312, and –313 Airplanes, and Model A340–541 and –642 Airplanes

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

ACTION: Final rule.

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

Several reports have recently been received of loose pneumatic quick-disconnect unions on Goodrich pitot probes P/N (part number) 0851HL. These may be the result of mis-torque of the affected unions at equipment manufacturing level. Investigations are still on-going to determine the root cause(s).

This condition, if not corrected, could lead to an air leak, resulting in incorrect total pressure measurement and consequent erroneous Calibrated Airspeed (CAS)/MACH parameters delivered by the Air Data Computer (ADC).

* * * * *

Loss or fluctuation of indicated airspeed could result in misleading information provided to the flightcrew. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective September 22, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 22, 2010.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 21, 2010 (75 FR 3420). That NPRM proposed to correct an unsafe condition for the specified products.

Since that NPRM was issued, the European Aviation Safety Agency (EASA), which is the aviation authority for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0202R1, dated April 15, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. (MCAI 2009–0202–E, dated September 21, 2009, and corrected September 22, 2009, was referred to in the NPRM.) The

MCAI has been revised to exclude pitot probes marked with a red torque check-indicating mark. If the red indicating mark is on the pitot probe, it can be installed with no further action. The MCAI states:

> Several reports have recently been received of loose pneumatic quick-disconnect unions on Goodrich pitot probes P/N (part number) 0851HL. These may be the result of mis-torque of the affected unions at equipment manufacturing level. Investigations are still on-going to determine the root cause(s).
>
> This condition, if not corrected, could lead to an air leak, resulting in incorrect total pressure measurement and consequent erroneous Calibrated Airspeed (CAS)/MACH parameters delivered by the Air Data Computer (ADC).
>
> As a precautionary measure, this AD requires a torque check of the pneumatic quick-disconnect union on certain Goodrich P/N 0851HL pitot probes and corrective action, depending on findings.
>
> * * * * *
>
> This AD [MCAI] is revised in order to exclude from the torque-check required by paragraph (4) of this AD those pitot probes marked with a red torque check-mark.

Loss or fluctuation of indicated airspeed could result in misleading information provided to the flightcrew. If the quick-disconnect union fitted on the pitot probe is not adequately torqued, the corrective action includes applying torque. You may obtain further information by examining the MCAI in the AD docket.

Revised Service Information

Airbus has issued All Operators Telexes (AOTs) A330–34A3235 (for Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes); A340–34A4241 (for Model A340–211, –212, –213, –311, –312, and –313 airplanes); and A340–34A5074 (for Model A340–541 and –642 airplanes); all Revision 02, all dated March 1, 2010. We have revised Table 1 of this AD to add Revision 02 of the AOTs as the appropriate source of service information for accomplishing the specified actions. We have also added a new Table 2 to this AD to give credit for accomplishing the actions using the previous issues of the AOTs.

Comments

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

Support for NPRM

The Airline Pilots Association (ALPA) supports the intent of the NPRM and appreciates the opportunity to comment.

Request for Credit for Actions Accomplished Previously

Delta Airlines asks that the NPRM be revised to allow credit for either adequate torqueing of the pneumatic quick-disconnect union of each pitot probe for affected pitot probes, or updating the aircraft maintenance manual (AMM) to ensure that the pneumatic quick-disconnect union of each pitot probe is torqued properly during installation. Delta states that Airbus AOT A330–34A3235, Revision 02, dated March 1, 2010, specifies that for pitot probes that are still held as spares there are two choices of actions as noted above.

Delta also asks that the NPRM be revised to give credit for pitot probes remanufactured and returned to Delta by Goodrich on which the proposed requirements were done before Airbus AOT A330–32A3235 dated September 10, 2009, or Revision 1, dated September 21, 2009, were issued. Delta notes that those pitot probes were returned with adequate torque but do not have a torque check indicating mark (Airbus AOT A330–32A3235, Revision 02, dated March 1, 2010, adds a torque check indicating mark after the pitot probe is adequately torqued). Delta states that it was proactive in correcting any deficiencies by taking immediate corrective actions. Delta adds that an allowance for this method of compliance should be included in the NPRM to avoid processing an alternative method of compliance (AMOC).

We disagree with the commenter's request to give credit for pitot probes remanufactured by Goodrich because non-marked pitot probes may be unintentionally installed on the airplane without performing a proper torque check. However, under the provisions of paragraph (h) of the final rule, we will consider requests for approval of an alternative method of compliance for using specific pitot probes identified by an operator if sufficient data are submitted to substantiate that the pitot probes would provide an acceptable level of safety.

Regarding Delta's comment on spare parts, we have revised paragraph (g)(4) of this AD to give credit for installing parts that have the torque check indicating mark.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from $80 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this AD will affect 47 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $3,995, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–17–02 Airbus: Amendment 39–16392. Docket No. FAA–2010–0041; Directorate Identifier 2009–NM–218–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD; certificated in any category; all manufacturer serial numbers; with pitot probes having Goodrich part number (P/N) 0851HL, serial numbers 267328 through 270714 inclusive.

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

(2) Model A340–211, –212, –213, –311, –312, and –313 airplanes.

(3) Model A340–541 and –642 airplanes.

Subject

(d) Air Transport Association (ATA) of America Code 34: Navigation.

Reason

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

Several reports have recently been received of loose pneumatic quick-disconnect unions on Goodrich pitot probes P/N (part number) 0851HL. These may be the result of mis-torque of the affected unions at equipment manufacturing level. Investigations are still on-going to determine the root cause(s).

This condition, if not corrected, could lead to an air leak, resulting in incorrect total pressure measurement and consequent erroneous Calibrated Airspeed (CAS)/MACH parameters delivered by the Air Data Computer (ADC).

As a precautionary measure, this AD requires a torque check of the pneumatic quick-disconnect union on certain Goodrich P/N 0851HL pitot probes and corrective action, depending on findings.

* * * * *

This AD [MCAI] is revised in order to exclude from the torque-check required by paragraph (4) of this AD those pitot probes marked with a red torque check-mark.

Loss or fluctuation of indicated airspeed could result in misleading information provided to the flightcrew. If the quick-disconnect union fitted on the pitot probe is not adequately torqued, the corrective action includes applying torque.

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) At the time specified, do the following actions.

(1) Within 14 days after the effective date of this AD: Perform a torque check of the pneumatic quick-disconnect union of each pitot probe having Goodrich P/N 0851HL, serial numbers 267328 through 270714 inclusive, to determine if the torque is adequate, in accordance with the instructions of the applicable service information specified in Table 1 of this AD. Before further flight, do all applicable corrective actions in accordance with the instructions of the applicable service information specified in Table 1 of this AD.

TABLE 1—AIRBUS SERVICE INFORMATION

Airbus all operators telex—	Revision—	Dated—
A330–34A3235 (for Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes).	02	March 1, 2010.
A340-34A4241 (for Model A340–211, –212, –213, –311, –312, and –313 airplanes)	02	March 1, 2010.
A340–34A5074 (for Model A340–541 and –642 airplanes)	02	March 1, 2010.

(2) Within 30 days after performing the torque check required by paragraph (g)(1) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Report the torque check results to Airbus, including no findings, as specified in the instructions of the applicable service information listed in Table 1 of this AD.

(3) Actions done before the effective date of this AD, in accordance with the applicable service information listed in Table 2 of this AD, are acceptable for compliance with the corresponding requirements in paragraph (g)(1) of this AD.

TABLE 2—AIRBUS CREDIT SERVICE INFORMATION

Airbus all operators telex—	Revision—	Dated—
A330–34A3235	Original	September 10, 2009.
A330–34A3235	1	September 21, 2009.

TABLE 2—AIRBUS CREDIT SERVICE INFORMATION—Continued

Airbus all operators telex—	Revision—	Dated—
A340–34A4241	Original	September 10, 2009.
A340–34A4241	1	September 21, 2009.
A340–34A5074	Original	September 10, 2009.
A340–34A5074	1	September 21, 2009.

(4) As of the effective date of this AD, no person may install a pitot probe having Goodrich P/N 0851HL, serial numbers 267328 through 270714 inclusive, on any airplane, unless the actions required by paragraph (g)(1) of this AD have been done; or an intact red torque check mark is visible on the interface of the pnuematic quick disconnect union and the union mount.

FAA AD Differences

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

Where the MCAI includes a compliance time of "5 days," we have determined that a compliance time of "within 14 days after the effective date of the AD" is appropriate. The manufacturer and EASA agree with this expansion in compliance time.

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

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

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

Related Information

(i) Refer to MCAI Airworthiness Directive 2009–0202R1, dated April 15, 2010; and the service information specified in Table 1 of this AD; for related information.

Material Incorporated by Reference

(j) You must use the service information contained in Table 3 of this AD, as applicable, to do the actions required by this AD, unless the AD specifies otherwise. (The document number, revision level, and date of these documents are listed only on the first page of these documents; no other page of these documents contains this information.)

TABLE 3—MATERIAL INCORPORATED BY REFERENCE

Airbus all operators telex—	Revision—	Dated—
A330–34A3235	02	March 1, 2010.
A340–34A4241	02	March 1, 2010.
A340–34A5074	02	March 1, 2010.

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

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; e-mail *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on July 30, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19701 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0782; Directorate Identifier 2010–SW–053–AD; Amendment 39–16396; AD 2010–11–51]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (Eurocopter) Model AS350B, BA, B1, B2, C, D, and D1 Helicopters and Model AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2010–11–51, which was sent previously to all known U.S. owners and operators

of the specified Eurocopter model helicopters by individual letters. This AD requires visually inspecting the tail gearbox (TGB) control lever for a crack. If a crack is found, this AD also requires replacing the cracked TGB control lever with an airworthy TGB control lever. Optional terminating actions for the inspection requirements of this AD can be done by either replacing a TGB control lever with an airworthy TGB control lever that is marked with an "X" near the part number or stripping the rework area and dye-penetrant inspecting that area for a crack, and if no crack is found, reworking and marking the TGB control lever. If a crack is found, removing and replacing the cracked TGB control lever with an airworthy TGB control lever is required. This AD is prompted by several reports of cracking in a TGB control lever. The actions specified by this AD are intended to prevent failure of the TGB control lever, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Effective September 2, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD 2010–11–51, issued on May 11, 2010, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 2, 2010.

Comments for inclusion in the Rules Docket must be received on or before October 18, 2010.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

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

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.Eurocopter.com.*

Examining the Docket: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: J.R. Holton, Jr., Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–4964, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On May 11, 2010, the FAA issued Emergency AD 2010–11–51 for the specified Eurocopter model helicopters, which requires visually inspecting the TGB control lever for a crack. If a crack is found, the AD requires replacing the cracked TGB control lever with an airworthy TGB control lever. Optional terminating actions for the inspection requirements of the AD can be done by either replacing a TGB control lever with an airworthy TGB control lever that is marked with an "X" near the part number or stripping the rework area and dye-penetrant inspecting that area for a crack, and if no crack is found, reworking and marking the TGB control lever. If a crack is found, the AD requires removing and replacing the cracked TGB control lever with an airworthy TGB control lever. The AD was prompted by several reports of cracking in a TGB control lever, including an accident involving a Eurocopter Model AS350B2 helicopter. An investigation revealed that a few surface anomalies may lead to a crack in the TGB control lever. This condition, if not corrected, could result in failure of the TGB control lever, loss of tail rotor control, and subsequent loss of control of the helicopter.

We have reviewed Eurocopter Emergency Alert Service Bulletin (EASB) No. 05.00.62, for Model AS350 helicopters and EASB No. 05.00.57 for Model AS355 helicopters. Both EASBs are Revision 1, dated April 23, 2010, and both describe procedures for a visual inspection of the TGB control lever for a crack that must be performed after the last flight of each day and prior to exceeding 10 flying hours for each inspection. The EASBs also describe a rework procedure for affected TGB control levers, which must be accomplished within 660 flying hours or no later than June 30, 2011, or before installing an affected TGB control lever on a helicopter. The one Eurocopter EASB contains four different service bulletin numbers (Nos. 05.00.62, 05.00.57, 05.00.38, and 05.00.35) applicable to four different Eurocopter model helicopters. EASB No. 05.00.38 relates to Eurocopter Model AS550 helicopters, and EASB No. 05.00.35 relates to Eurocopter Model AS555 helicopters. Eurocopter Model AS550 and AS555 helicopters are military models and are not type-certificated in the United States. This AD does not incorporate EASB No. 05.00.38 nor EASB No. 05.00.35.

The European Aviation Safety Agency (EASA), which is the Technical Agent for France, notified the FAA that an unsafe condition may exist on these helicopter models. EASA advises of a crack discovered in a TGB control lever, which could lead to a loss of tail rotor control and subsequent loss of control of the helicopter. EASA classified the service bulletin as mandatory and issued EASA Emergency AD No. 2010–0082–E, dated April 27, 2010, to ensure the continued airworthiness of these helicopters. The AD differs from EASA Emergency AD No. 2010–0082–E as follows:

- We include the Eurocopter Model AS350C and AS350D1 helicopters that may contain the affected TGB control lever;
- We use the term "hours time-in-service" rather than "flight hours";
- We do not require replacing the TGB control lever within 660 hours TIS or 14 months, but instead offer optional terminating actions for the repetitive inspection requirements; and
- We do not require you to contact Eurocopter if a crack is found during any inspection.

These helicopter models are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, EASA has kept the FAA informed of the situation described. The FAA has examined the findings of EASA, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other Eurocopter model helicopters of these same type designs, the FAA issued Emergency AD 2010–11–51 to prevent failure of the TGB control lever, loss of tail rotor control, and subsequent loss of

control of the helicopter. The AD requires within 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 10 hours TIS, visually inspecting the TGB control lever for a crack. If a crack is found, the AD requires replacing the cracked TGB control lever with an airworthy TGB control lever before further flight. Optional terminating actions for the inspection requirements of the AD can be accomplished by either replacing a TGB control lever with an airworthy TGB control lever that is marked with an "X" near the part number or stripping the rework area and dye-penetrant inspecting that area for a crack, and if no crack is found, reworking and marking the TGB control lever before further flight. If a crack is found, removing and replacing the cracked TGB control lever with an airworthy TGB control lever is required before further flight. The actions must be done by following the specified portions of the service bulletin described previously.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, visually inspecting the TGB control lever for a crack is required within 10 hours TIS replacing any cracked TGB is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on May 11, 2010, to all known U.S. owners and operators of the specified Eurocopter model helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that this AD will affect 791 helicopters of U.S. registry. The initial and repetitive inspections for a crack in the TGB control lever will take a minimal amount of time. The average labor rate is $85 per work hour. Replacing a control lever, will take about 3 work hours, and the required parts will cost about $2,103 per helicopter. Based on these figures, we estimate the total cost of the AD on U.S. operators to be $1,865,178, assuming the control lever is replaced on the entire fleet. If you choose to dye-penetrant inspect, remove, rework, and replace the lever, it will take about 5 work hours, and the parts will cost about $20 per helicopter. Based on these figures, we estimate the total cost of the AD on U.S. operators to be $351,995, assuming no control levers are found cracked.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0782; Directorate Identifier 2010–SW–053–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Regulatory Findings

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

For the reasons discussed above, I certify that the 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 an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2010–11–51 Eurocopter France: Amendment 39–16396. Docket No. FAA–2010–0782; Directorate Identifier 2010–SW–053–AD.

Applicability: Model AS350B, BA, B1, B2, C, D, and D1 helicopters and Model AS355E, F, F1, F2, and N helicopters, with a tail gearbox (TGB) control lever, part number (P/N) 350A33–1058–00, P/N 350A33–1058–01, P/N 350A33–1058–02, or P/N 350A33–1058–03, that is not marked with an "X" near the P/N, installed, certificated in any category.

Compliance: Required as indicated.

To detect cracking in a TGB control lever and prevent failure of the TGB control lever, loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 10 hours TIS, visually inspect the affected TGB control

lever for cracking in accordance with the Accomplishment Instructions, paragraph 2.B.1.a., in Eurocopter Emergency Alert Service Bulletin (EASB) No. 05.00.62, Revision 1, dated April 23, 2010, for Model AS350 helicopters or EASB No. 05.00.57, Revision 1, dated April 23, 2010, for Model AS355 helicopters.

(b) If a crack is found, before further flight, remove and replace the cracked TGB control lever with an airworthy TGB control lever in accordance with the Accomplishment Instructions, paragraph 2.B.2., in the EASB appropriate for your model helicopter.

(c) Either of the following options constitutes a terminating action for the inspection requirements of this AD:

(1) Replace a TGB control lever with an airworthy TGB control lever that is marked with an "X" near the P/N; or

(2) Strip the rework area "B" as shown in Figure 4 of each EASB and perform a dye-penetrant inspection on that area for a crack. If no crack is found, rework and mark the TGB control lever in accordance with paragraph 2.B.3.b. of the EASB appropriate for your model helicopter, except you are not required to contact Eurocopter France. If a crack is found, before further flight, remove and replace the cracked TGB control lever with an airworthy TGB control lever in accordance with the Accomplishment Instructions, paragraph 2.B.2., in the EASB.

Note 1: One Eurocopter EASB contains four different service bulletin numbers but only portions of 2 EASBs are being incorporated.

Note 2: Installing a reinforced TGB control lever, P/N 350A33–1524–00 or P/N 350A33–1526–00, that does not need to be marked with an "X" constitutes compliance with paragraph (c) of this AD.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, FAA, ATTN: J.R. Holton, Jr., Aviation Safety Engineer, ASW–112, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–4964, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the inspection requirements of paragraph (a) of this AD can be accomplished.

(f) The Joint Aircraft System/Component (JASC) Code is 6720: Tail Rotor Control System.

(g) Inspecting, replacing the control lever or removing, reworking, and replacing the control lever shall be done in accordance with the specified portions of Eurocopter Emergency Alert Service Bulletin (EASB) No. 05.00.62, Revision 1, dated April 23, 2010, for Model AS350 helicopters or EASB No. 05.00.57, Revision 1, dated April 23, 2010, for Model AS355 helicopters. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.Eurocopter.com*. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(h) This amendment becomes effective on September 2, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD 2010–11–51, issued May 11, 2010, which contained the requirements of this amendment.

Note 3: The subject of this AD is addressed in European Aviation Safety Agency (France) Emergency AD No. 2010–0082–E, dated April 27, 2010.

Issued in Fort Worth, Texas, on August 2, 2010.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–19818 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0521; Directorate Identifier 2009–NE–21–AD; Amendment 39–16405; AD 2010–17–13]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211–524C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) 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:

A number of LPT casings have been found cracked during engine shop visit. Cracking of the LPT casing reduces the capability of the casing to contain debris in the event of an LPT stage 1 blade failure. Therefore, blade failure in an engine featuring a cracked LPT casing may result in release of uncontained high energy debris.

For the reason described above, this AD requires repetitive inspections and corrective actions, depending on findings.

We are issuing this AD to detect cracks in the low-pressure turbine (LPT) casings, which could result in the release of uncontained high-energy debris in the event of a stage 1 blade failure. Uncontained high-energy debris could result in damage to the airplane.

DATES: This AD becomes effective September 22, 2010.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *alan.strom@faa.gov;* telephone (781) 238–7143; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on May 19, 2010 (75 FR 27973). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A number of LPT casings have been found cracked during engine shop visit. Cracking of the LPT casing reduces the capability of the casing to contain debris in the event of an LPT stage 1 blade failure. Therefore, blade failure in an engine featuring a cracked LPT casing may result in release of uncontained high energy debris.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The commenter supports the NPRM.

Conclusion

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 10 products of U.S. registry. We also estimate that it will take about 10 work-hours per product to comply with this AD. The average labor rate is $85 per work-hour. Required parts will cost about $25,000 per product. Based on these figures, we estimate the cost of the AD on U.S. operators to be $258,500.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2010–17–13 Rolls-Royce plc (Formerly Rolls-Royce Limited): Amendment 39–16405. Docket No. FAA–2010–0521; Directorate Identifier 2009–NE–21–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) model RB211–524C2–19 and RB211–524C2–B–19 turbofan engines. These engines are installed on, but not limited to, Boeing 747 series airplanes.

Reason

(d) A number of LPT casings have been found cracked during engine shop visit. Cracking of the LPT casing reduces the capability of the casing to contain debris in the event of an LPT stage 1 blade failure. Therefore, blade failure in an engine with a cracked LPT casing may result in release of uncontained high-energy debris.

We are issuing this AD to detect cracks in the low-pressure turbine (LPT) casings, which could result in the release of uncontained high-energy debris in the event of a stage 1 blade failure. Uncontained high-energy debris could result in damage to the airplane.

Actions and Compliance

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

Initial Inspection Requirements

(1) Perform a fluorescent penetrant inspection (FPI) before the life of the LPT casing has reached 4,500 cycles-since-new (CSN) or within 4,500 cycles-since-last inspection (CSLI) or within 500 cycles after the effective date of this AD, whichever occurs later. You can find guidance on performing the FPI in RR Alert Service Bulletin (ASB) RB.211–72–AG076, dated November 13, 2008.

Repetitive Inspection Requirements

(2) Thereafter, perform an FPI at intervals not exceeding 4,500 CSLI. You can find guidance on performing the FPI in Rolls-Royce plc ASB RB.211–72–AG076, dated November 13, 2008.

Remove Parts With Cracks

(3) Remove cracked LPT casings, found using paragraphs (e)(1) or (e)(2) of this AD, from service before further flight.

Alternative Methods of Compliance (AMOCs)

(f) 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 AD 2009–0083, dated April 16, 2009, and Rolls-Royce plc ASB No. RB.211–72–AG076, dated November 13, 2008, for related information. Contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 011 44 1332 242424; fax 011 44 1332 249936, for a copy of this service information.

(h) Contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *alan.strom@faa.gov;* telephone (781) 238–7143; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(i) None.

Issued in Burlington, Massachusetts, on August 6, 2010.

Peter A. White,

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

[FR Doc. 2010–20353 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0433; Directorate Identifier 2009–NM–117–AD; Amendment 39–16388; AD 2010–16–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model MD–90–30 airplanes. This AD requires inspecting for corrosion of the retract cylinder support fitting for the main landing gear (MLG) and the mating bore for the support fitting in the MLG trunnion fitting, performing corrective actions if necessary, and replacing cadmium-plated retract cylinder

support bushings and bearings. This AD results from reports of the retract cylinder support fitting for the MLG failing during gear extension and subsequently damaging the hydraulic system. We are issuing this AD to prevent corrosion and damage that could compromise the integrity of the retract cylinder support fitting for the MLG, which could adversely affect the airplane's safe landing.

DATES: This AD is effective September 22, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 22, 2010.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com*.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5233; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Model MD–90–30 airplanes. That NPRM was published in the **Federal Register** on April 26, 2010 (75 FR 21528). That NPRM proposed to require inspecting for corrosion of the retract cylinder support fitting for the main landing gear (MLG) and the mating bore for the support fitting in the MLG trunnion fitting, performing corrective actions if necessary, and replacing cadmium-plated retract cylinder support bushings and bearings.

Comments

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

Conclusion

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

Costs of Compliance

We estimate that this AD affects 16 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection	1	$85	$0	$85	16	$1,360
Replacement	8	85	24,580	25,260	16	404,160

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–16–11 McDonnell Douglas Corporation: Amendment 39–16388. Docket No. FAA–2010–0433; Directorate Identifier 2009–NM–117–AD.

Effective Date

(a) This airworthiness directive (AD) is effective September 22, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model MD–90–30 airplanes, certificated in any category, as identified in Boeing Service Bulletin MD90–57–016, Revision 2, dated April 28, 2006.

Subject

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

Unsafe Condition

(e) This AD results from reports of the retract cylinder support fitting for the main landing gear (MLG) failing during gear extension, and subsequently damaging the hydraulic system. The Federal Aviation Administration is issuing this AD to prevent corrosion and damage that could compromise the integrity of the retract cylinder support fitting for the MLG, which could adversely affect the airplane's safe landing.

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.

Inspection and Corrective Actions

(g) Before the accumulation of 30,000 total flight hours, or within 15,000 flight hours after the effective date of this AD, whichever occurs later, do a general visual inspection of the retract cylinder support fitting for the MLG and the mating bore in the MLG trunnion fitting for corrosion, install bushings and bearings without cadmium plating in the bore, and do all applicable corrective actions, in accordance with Configuration 1 of the Accomplishment Instructions of Boeing Service Bulletin MD90–57–016, Revision 2, dated April 28, 2006. Do all applicable corrective actions before further flight.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(h) Doing a general visual inspection, installing bushings and bearings, and doing all applicable corrective actions is also acceptable for compliance with the requirements of paragraph (g) of this AD if done before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD90–57–016, Revision 1, dated October 26, 2005.

(i) Doing a general visual inspection, installing bushings and bearings, and doing all applicable corrective actions is also acceptable for compliance with the requirements of paragraph (g) of this AD if done before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD90–57–016, dated September 18, 2002, provided that before the accumulation of 30,000 total flight hours, or within 15,000 flight hours after the effective date of this AD, whichever occurs later, electroless nickel fittings are installed, and bushings and bearings without cadmium plating in the bore are installed in accordance with the Accomplishment Instructions of any of the service bulletins listed in Table 1 of this AD.

TABLE 1—SERVICE INFORMATION

Document	Revision	Date	Incorporated by reference
Boeing Service Bulletin MD90–57–016	1	October 26, 2005	No.
Boeing Service Bulletin MD90–57–016	2	April 28, 2006	Yes.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5233; fax (562) 627–5210.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by Boeing Commercial Airplanes Organization Designation Authorization (ODA) who has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(k) You must use Boeing Service Bulletin MD90–57–016, Revision 2, dated April 28, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on July 28, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19328 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DoD–2009–HA–0098]

RIN 0720–AB36

TRICARE: Non-Physician Referrals for Physical Therapy, Occupational Therapy, and Speech Therapy

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is publishing this final rule to provide

TRICARE approval for authorizing certified physician assistants and certified nurse practitioners (non-physicians) to engage in referrals of beneficiaries to the Military Health System for physical therapy, occupational therapy, and speech therapy. Upon implementation of this provision, certified physician assistants, or certified nurse practitioners will be allowed to issue referrals to patients for physical therapy, occupational therapy, and speech therapy without having the patient see a physician. This rule will align TRICARE with Medicare's allowance of "non-physician providers" to provide, certify, or supervise therapy services.

DATES: *Effective Date:* This rule is effective September 17, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn J. Corn, TRICARE Management Activity, Medical Benefits and Reimbursement Branch, telephone (303) 676–3566. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 29, 2009, (74 FR 55794), the Office of the Secretary of Defense published for public comment a proposed rule that will permit services of an otherwise TRICARE-authorized individual paramedical provider, physical therapist (PT), occupational therapist (OT), and speech therapist (ST) to be paid on a fee-for-service basis if based on a referral from a certified physician assistant or certified nurse practitioner.

II. Public Comments

We provided a 60-day public comment period following publication of the Proposed Rule in the **Federal Register** (74 FR 55794) on October 29, 2009. We received three comments on the proposed rule.

One commenter expressed concern that allowing referrals directly from nurse practitioners or physician assistants will keep patients—or at least their records—from being seen by a physician, and by doing so, it could result in the misdiagnosis of an injury or illness resulting in the wrong treatment action being taken. We appreciate the comment. This rule allows referral from TRICARE-authorized certified nurse practitioners and certified physician assistants to TRICARE-authorized physical therapists, occupational therapists, and speech therapists. All providers are required to practice within the scope of their licensure and, should treatment require referral to a higher level of professional medical provider, such referrals or consultations are expected.

A second commenter wanted to speak against the provision that a Doctor of Medicine and especially a Nurse Practitioner or Physician Assistant are qualified to provide oversight to a Doctor of Physical Therapy. The commenter further stated that physical therapists are certified under their respective states and their educational qualifications are equivalent to a graduate of a professional medicine degree program and exceed the education of both the nurse practitioner and physician assistant, who are health professionals and are qualified to provide referral, but not oversight of a physical therapy plan of care. We appreciate the comment and recognize the education and training of those who obtain a Doctor of Physical Therapy degree. However, at this time the Department is only expanding the categories of persons who can make referral to a physical therapist and is not contemplating a revocation of the requirement for oversight of these providers. The Department of Defense's position on this issue is consistent with Medicare's and its allowance of "non-physician providers" to provide, certify, or supervise therapy services.

The third commenter requests that TRICARE policy also allow for the referral of beneficiaries for licensed registered nurse services and audiology services by non-physician practitioners. We appreciate the comment. The proposed rule only proposed expanding referrals by certified nurse practitioners or certified physician assistants to TRICARE-authorized physical therapists, occupational therapists, and speech therapists. Under current TRICARE rules, referrals for licensed registered nurse services and audiologist services can only be made by a physician. At this time the Department of Defense is limiting the certified nurse practitioner and certified physician assistant referral services to physical therapy, occupational therapy, and speech therapy as outlined in the proposed rule. At this time the Department does not intend to expand this rule to include a referral for registered nurse services or audiology. At this time the Department feels the need for these services are best assessed by a physician.

III. Regulatory Procedures

Executive Order 12866, "*Regulatory Planning and Review*"

Section 801 of Title 5, United States Code (U.S.C.), and Executive Order (E.O.) 12866 require certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. It has been certified that this rule is not an economically significant rule, however, it is a regulatory action which has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Section 202, Public Law 104–4, "*Unfunded Mandates Reform Act*"

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year.

Public Law 96–354, "*Regulatory Flexibility Act*" *(5 U.S.C. 601)*

The Regulatory Flexibility Act (RFA) requires each Federal agency to prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule will not significantly affect a substantial number of small entities for purposes of the RFA.

Public Law 96–511, "*Paperwork Reduction Act*" *(44 U.S.C. Chapter 35)*

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized.

Executive Order 13132, "*Federalism*"

This rule has been examined for its impact under E.O. 13132 and does not contain policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government; therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

■ 2. Section 199.4 is amended by revising paragraph (c)(3)(x)(A) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(c) * * *

(3) * * *

(x) * * *

(A) The services are prescribed and monitored by a physician, certified physician assistant or certified nurse practitioner.

* * * * *

■ 3. Section 199.6 is amended by revising paragraph (c)(3)(iii)(K) to read as follows:

§ 199.6 TRICARE-authorized providers.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(K) *Other individual paramedical providers.* (*1*) The services of the following individual professional providers of care to be considered for benefits on a fee-for-service basis may be provided only if the beneficiary is referred by a physician for the treatment of a medically diagnosed condition and a physician must also provide continuing and ongoing oversight and supervision of the program or episode of treatment provided by these individual paramedical providers.

(*i*) Licensed registered nurses.

(*ii*) Audiologists.

(*2*) The services of the following individual professional providers of care to be considered for benefits on a fee-for-service basis may be provided only if the beneficiary is referred by a physician, a certified physician assistant or certified nurse practitioner and a physician, a certified physician assistant, or certified nurse practitioner must also provide continuing and ongoing oversight and supervision of the program or episode of treatment provided by these individual paramedical providers.

(*i*) Licensed registered physical therapist and occupational therapist.

(*ii*) Licensed registered speech therapists (speech pathologists).

* * * * *

Dated: August 10, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20390 Filed 8–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD–2009–HA–0096]

RIN 0720–AB34

TRICARE: Transitional Assistance Management Program (TAMP)

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is publishing this final rule to implement section 4 of the Hubbard Actand section 734 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. These Acts provide two new categories of beneficiaries for the Transitional Assistance Management Program (TAMP). Specifically, a member who receives a sole survivorship discharge and a member who is separated from Active Duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component are eligible for TAMP.

DATES: *Effective Date:* This rule is effective September 17, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn J. Corn, TRICARE Management Activity, Medical Benefits and Reimbursement Branch, telephone (303) 676–3566. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 27, 2009, (74 FR 62269), the Office of the Secretary of Defense published for public comment a proposed rule establishing two new eligibility categories under TAMP. The TAMP benefit provides continued TRICARE coverage for a period of 180 days. For those who qualify, the 180 day time frame begins upon the Active Duty member's separation.

II. Explanation of Provisions

Public Law 110–317 amended section 1145(a)(2) of title 10, U.S.C. by adding "a member who receives a sole survivorship discharge (as defined in section 1174(i) of this title)" as an additional category of TAMP eligible. The provision is effective August 29, 2008.

Public Law 110–471 amended section 1145(a)(2) of title 10, U.S.C. by adding "A member who is separated from Active Duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component." This provision is effective October 14, 2008.

This final rule establishes these two new eligibility categories under TAMP.

III. Public Comments

We provided a 60-day public comment period following publication of the Proposed Rule in the **Federal Register** (74 FR 62269) on November 27, 2009. No comments were received.

IV. Regulatory Procedures

Executive Order 12866, "*Regulatory Planning and Review*"

Section 801 of Title 5, United States Code (U.S.C.), and Executive Order (E.O.) 12866 require certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. It has been certified that this rule is not an economically significant rule; however, it is a regulatory action which has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Section 202, Public Law 104–4, "*Unfunded Mandates Reform Act*"

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and Tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, "*Regulatory Flexibility Act*" *(5 U.S.C. 601)*

The Regulatory Flexibility Act (RFA) requires each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule will not significantly affect a substantial number of small entities for purposes of the RFA.

Public Law 96–511, "*Paperwork Reduction Act*" *(44 U.S.C. Chapter 35)*

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized.

Executive Order 13132, "*Federalism*"

This rule has been examined for its impact under E.O. 13132 and does not contain policies that have federalism

implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government; therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

■ 2. Section 199.3 is amended by adding paragraphs (e)(1)(v) and (e)(1)(vi) to read as follows:

§ 199.3 Eligibility.

* * * * *

(e) * * *

(1) * * *

(v) A member who receives a sole survivorship discharge (as defined in section 1174(i) of this title).

(vi) A member who is separated from Active Duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component.

* * * * *

Dated: August 10, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20393 Filed 8–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DoD–2008–HA–0123]

RIN 0720–AB29

TRICARE; TRICARE Delivery of Health Care in Alaska

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: TRICARE has recognized the unique circumstances existing in Alaska which make the provision of medical care to TRICARE beneficiaries through the TRICARE program operated in the other 49 states unrealistic. Recognizing these unique conditions and circumstances, the Department of Defense has conducted a demonstration project in the state of Alaska since implementation of the TRICARE program under which certain exceptions have been made for administration of the program in Alaska. This rule incorporates the waiver of the requirement for financial underwriting by a TRICARE contractor as a permanent change to the administration of the TRICARE program in Alaska. This rule proposes no change to the TRICARE benefit or to those who are eligible for it. However, the rule does eliminate the financial underwriting of health care costs in the state of Alaska by a TRICARE contractor.

DATES: *Effective Date:* September 17, 2010.

FOR FURTHER INFORMATION CONTACT: LTC Stephen Oates, TRICARE Policy and Operations Directorate, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041, telephone (703) 681–0039.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

In recognition of the unique geographical and environmental characteristics of the state of Alaska, the Department of Defense has conducted a demonstration project which tested the viability of implementing the TRICARE program differently in Alaska (see **Federal Register**, Vol. 69, No. 96/ Tuesday, May 18, 2004/Notices). To date that demonstration has supported the impracticability and lack of cost effectiveness to impose on a TRICARE contractor the financial underwriting of the delivery of health care resulting from costs associated with the TRICARE program over which the contractor has no control. The demonstration is authorized until March 31, 2011. This rule will make permanent the waiver of the financial underwriting requirement by the TRICARE contractor in the delivery of health care in Alaska.

II. Public Comments

The proposed rule was published in the **Federal Register** (74 FR 62270–62271) on November 27, 2009, for a 60-day comment period. Two comments were submitted and are responded to below.

Comment: Alaska TRICARE managers need authorization, as do other states, to designate civilian primary care managers (PCMs) for care unavailable or too distant for the members who are in TRICARE Prime.

Response: We agree that allowing TRICARE managers the ability to designate civilian primary care managers (PCMs) would improve the access to care for eligible beneficiaries. Policies are currently being reviewed to assess the feasibility of incorporating such practices without adversely affecting the local community.

Comment: Certified Nurse Midwives and state-licensed direct-entry midwives are underutilized alternatives to physician-led care for pregnant women. Also, TRICARE's authorized providers should be expanded to include state-licensed midwives.

Response: We understand the limited choices available to beneficiaries in the state of Alaska; however, the ultimate decision remains with the beneficiary on provider selection. In order for a Certified Nurse Midwife to become a TRICARE-authorized provider, he/she must be licensed, when required, by a local licensing agency and certified by the American College of Nurse Midwives.

II. Regulatory Procedures

Executive Order 12866, "*Regulatory Planning and Review*"

Section 801 of title 5, United States Code (U.S.C.) and Executive Order (E.O.) 12866 require certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. It has been certified that this rule is not an economically significant rule, however, it is a regulatory action which has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Section 202, Public Law, 104–4, "*Unfunded Mandates Reform Act*"

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, "*Regulatory Flexibility Act*" *(5 U.S.C. 601)*

The Regulatory Flexibility Act (RFA) requires each Federal agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA. Thus, this

proposed rule is not subject to any of these requirements.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)

This rule will not impose additional information collection requirements on the public.

Executive Order 13132, "*Federalism*"

We have examined the impact of the rule under Executive Order 13132, and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR part 199 is amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.17 is amended by revising the second sentence of paragraph (a)(3), redesignating paragraph (v) as paragraph (w), and by adding a new paragraph (v) to read as follows:

§ 199.17 TRICARE program

* * * * *

(a) * * *

(3) * * * Its geographical applicability is to all 50 states (except as modified for the state of Alaska under paragraph (v) of this section) and the District of Columbia. * * *

* * * * * *

(v) *Administration of the TRICARE program in the state of Alaska.* In view of the unique geographical and environmental characteristics impacting the delivery of health care in the state of Alaska, administration of the TRICARE program in the state of Alaska will not include financial underwriting of the delivery of health care by a TRICARE contractor. All other provisions of this section shall apply to administration of the TRICARE program in the state of Alaska as they apply to the other 49 states and the District of Columbia.

* * * * *

Dated: August 10, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20391 Filed 8–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 3 and 165

[Docket No. USCG–2010–0351]

RIN 1625–ZA25

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments, Sector Columbia River; Correction

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard published in the **Federal Register** of August 11, 2010, a document concerning non-substantive changes to Title 33 Parts 3 and 165 of the Code of Federal Regulations. That publication contained several errors regarding the name of the Sector that was being disestablished and one being established in its place. In addition, there was an error in amendatory instruction 5. This document corrects these errors.

DATES: This correction is effective August 18, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lt. Matthew Jones, Coast Guard; telephone 206–220–7110, e-mail *Matthew.m.jones@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: In FR doc 2010–19754 appearing on page 48564 in the issue of Wednesday, August 11, 2010, the following corrections are made:

1. In the document heading on page 48564, correct the subject heading to read "Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments, Sector Columbia River."

2. On page 48564, in the first column, revise the summary section to read as follows:

"This rule makes non-substantive changes throughout our regulations. The purpose of this rule is to make conforming amendments and technical corrections to reflect the combination and renaming of Sector Portland and Group/Air Station Astoria to Sector Columbia River as part of the Coast Guard reorganization."

3. On page 48564, in the second column, revise the discussion of rule section to read as follows:

"This rule revises 33 CFR parts 3 and 165 to reflect changes in Coast Guard internal organizational structure. Sector Portland and Group/Air Station Astoria have been disestablished and Sector Columbia River has been established in their place. The new Sector begins operations on August 23, 2010. This rule revises 33 CFR parts 3 and 165 to reflect the Sector Columbia River and Captain of the Port Zone name change in current regulations. This rule is a technical revision reflecting changes in agency procedure and organization, and does not indicate new authorities nor create any substantive requirements."

4. On page 48565, in the third column, revise amendatory instruction number 5 to read as follows:

"In § 165.1312(b), remove the phrase "Coast Guard Captain of the Port, Portland" and add, in its place, the phrase "Captain of the Port Columbia River"."

Dated: August 13, 2010.

Steve Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2010–20509 Filed 8–17–10; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0601 and EPA–HQ–OPP–2008–0602; FRL–8836–3]

2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole (CAS Reg. No. 25973–55–1) and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl; (CAS Reg. No. 23328–53–2) when used as a ultraviolet (UV)

stabilizer at a maximum concentration of 0.6% in insecticide formulations applied pre-harvest to adzuki beans, canola, chickpeas, cotton, faba beans, field peas, lentils, linola, linseed, lucerne, lupins, mung beans, navy beans, pigeon peas, safflower, sunflower, and vetch under 40 CFR 180.920. Ag-Chem Consulting on behalf of Caltex Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl.

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0601 and EPA–HQ–OPP–2008–0602. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Deirdre Sunderland, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0851; e-mail address: *sunderland.deirdre@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0601 and EPA–HQ–OPP–2008–0602 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID numbers EPA– EPA–HQ–OPP–2008–0601 and EPA–HQ–OPP–2008–0602, by one of the following methods:

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

II. Petition for Exemption

In the **Federal Register** of December 3, 2008 (73 FR 73648) (FRL–8391–3), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 8E7362 and PP 8E7363) by, Ag-Chem Consulting, 12208 Quinque Lane, Clifton, VA 21024 on behalf of Caltex Inc., 2 Market Street, Sydney, Australia. The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole (CAS Reg. No. 25973–55–1) and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl; (CAS Reg. No. 23328–53–2) when used as an inert ingredient as an ultraviolet (UV) stabilizers at a maximum concentration of 0.6% in insecticide formulations applied to adzuki beans, canola, chickpeas, cotton, faba beans, field peas, lentils, linola, linseed, lucerne, lupins, mung beans, navy beans, pigeon peas, safflower, sunflower, and vetch. That notice referenced a summary of the petition prepared by Ag-Chem Consulting on behalf of Caltex Inc., the petitioner, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

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

Consistent with section 408(c)(2)(A) of FFDCA, and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The petition provided evidence that Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl is structurally and toxicologically similar to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole. The Agency agrees that data on 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole would represent a worst case scenario for Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl and has, therefore, been used when determining risk associated with the use of both of these chemicals.

Acute studies with 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole revealed low acute toxicity with an oral LD_{50} >2325 mg/kg. Acute inhalation and dermal studies resulted in LC_{50} >1,420 mg/m^3 and LD_{50} >2,000 mg/kg, respectively for analog chemicals. Skin irritation studies with 2-(2'-hydroxy-5'-methylphenyl) benzotriazole (CAS Reg. No. 2440–22–4), an analog chemical, on rats and mice showed no local irritation and no systemic toxicity. 2-(2'-hydroxy-5'-methylphenyl) benzotriazole was found to be slightly irritating to rabbit eyes. Skin sensitization studies with 2-(2'-hydroxy-5'-methylphenyl) benzotriazole in guinea pigs showed skin sensitization; however, studies conducted on humans showed no sensitization.

A 90–day toxicity study in Wistar rats administered 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole through the diet. Thyroid, liver, kidney, spleen, and testes weights were increased in higher exposure groups. The primary target organ was the liver which showed microscopic changes and a greenish-drab discoloration at higher dose levels. Reproductive organs were not evaluated microscopically. Pigmentation was also seen in the proximal tubular cells of females. No mortality was observed. The no-observed-adverse-effect-level (NOAEL) of 20 mg/kg/day is based on liver and kidney effects seen at the lowest-observed-adverse-effect-level (LOAEL) of 40 mg/kg/day.

In a 90–day dog study, Beagles were administered 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole via the diet. Animals in the high-dose group showed decreases in body weight and food consumption, and changes in blood chemistry. Males showed decreases in testes, prostate, and epididymal weights (≥120 mg/kg/day) and females showed deceases in uterus weight (≥60 mg/kg/day). One male dog in the highest dose group died. Histopathologic effects were noted in the liver (the primary target organ), kidney, and testes (≥60 mg/kg/day) groups along with atrophy of uterus, abnormal spermiogenesis, and atrophy of the prostate. Liver damage was observed in a few dogs. The NOAEL was 30 mg/kg/day based on body weight, liver, and kidney effects seen at the LOAEL of 60 mg/kg/day.

Developmental studies have been conducted on two structurally similar chemicals. Rats and mice received the test substance containing 2-(2'-hydroxy-5'-methylphenyl) benzotriazole (CAS Reg. No. 2440–22–4) on days 6–15 of gestation. No maternal toxicity was evident and the rates of implantation and embryotoxicity were not affected by treatment. No teratogenic effects were observed. The NOAEL for maternal and developmental toxicity was 1,000 mg/kg/day (highest dose tested) in mice and rats. A second developmental rat study showed no maternal toxicity at any dose tested for 2-(2H- Benzotriazol-2-yl)-4,6-

bis(1-methyl-1-phenylethyl) phenol (CAS Reg. No. 70321–86–7). A significant reduction in fetal body weight and an increased delay of skeletal maturation was observed in the 1,000 mg/kg/day dose group. However, there were no similar effects in the high dose group indicating that these effects may be "incidental". An omphalocele was seen in one fetus in the high dose group. The maternal toxicity NOAEL was 3,000 mg/kg/day (highest dose tested). A developmental toxicity NOAEL of 1,000 mg/kg/day was chosen based on the omphalocele seen at the LOAEL of 3,000 mg/kg/day.

All genetic toxicity tests (in vitro and in vivo) conducted indicated that this group of chemicals are not mutagenic and will not undergo chromosomal aberrations. No evidence of carcinogenicity was observed in rats when 142 mg/kg/day of 2-(2'-hydroxy-5'-methylphenyl) benzotriazole (CAS Reg. No. 2440–22–4) was administered in the diet for 104 weeks. Negative finding were also seen in rats and mice given up to 62 mg/kg/day for 24 months. No clinical signs of neurotoxicity were seen in any of the repeat dose studies. Therefore, 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl are not expected to be neurotoxic.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level — generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD) — and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

The point of departure for risk assessment for all durations and routes of exposure was from the 90–day toxicity study in rats. The NOAEL was 20 mg/kg/day and the LOAEL was 40 mg/kg/day based on increases in liver, kidney, spleen, and testes weights. Although the chronic point of departure was selected from a subchronic study, longer-term studies are available that shows the lack of toxicity even at higher doses (NOAEL higher than 60 mg/kg/day in carcinogenicity studies on a structurally similar chemical). No additional uncertainty factor is needed for extrapolating from subchronic to chronic exposure. A 1,000 fold uncertainty factor was used for the chronic exposure (10X interspecies extrapolation, 10X for intraspecies variability and 10X FQPA factor for the lack of reproduction studies). The NOAEL of 20 mg/kg/day was used for all exposure duration via dermal and inhalation routes of exposure. The residential, occupational and aggregate level of concern (LOC) is for MOEs that are less than 1,000 and is based on 10X interspecies extrapolation, 10X for intraspecies variability and 10X FQPA factor for the lack of reproduction studies. Dermal absorption is estimated to be 10% based on SAR analysis. A 100% inhalation is assumed.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl in food as follows:

In conducting the chronic dietary exposure assessment, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high-use insecticides, herbicides, and fungicides. The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts.'' (D361707, S. Piper, 2/25/09) and can be found at http://www.regulations.gov in docket ID number EPA–HQ–OPP–2008–0738.

In the case of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl, EPA made a specific adjustment to the dietary exposure assessment to account for the use limitations of the amount of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl that may be in formulations (no more than 0.6% by weight in pesticide products applied to adzuki beans, canola, chickpeas, cotton, faba beans, field peas, lentils, linola, linseed, lucerne, lupins, mung beans, navy beans, pigeon peas, safflower, sunflower, and vetch) and assumed that the 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl are present at the maximum limitation rather than at equal quantities with the active ingredient.

2. *Dietary exposure from drinking water*. For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Residential uses of these chemicals are extremely limited. However, in order to account for all of the current and unanticipated potential residential uses of these chemicals various exposure models were employed. The

Agency believes that the scenarios assessed represent highly conservative worse-case short and intermediate term exposures and risks to residential handlers and those experiencing post-application exposure resulting from the use of indoor and outdoor pesticide product containing these inert ingredients in residential environments. Based on the use pattern the chronic exposure is not anticipated. Therefore, the risk from the chronic residential exposure was not assessed.

Further details of this residential exposure and risk analysis can be found at http://www.regulations.gov in the memorandum entitled "JITF Inert Ingredients. Residential and Occupational Exposure Assessment Algorithms and Assumptions Appendix for the Human Health Risk Assessments to Support Proposed Exemption from the Requirement of a Tolerance When Used as Inert Ingredients in Pesticide Formulations" (D364751, 5/7/09, Lloyd/LaMay in docket ID number EPA–HQ–OPP–2008–0710.

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

EPA has not found 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl share a common mechanism of toxicity with any other substances, and 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl do not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. Developmental studies have been conducted on two structurally similar chemicals. In one study, no maternal toxicity was evident and the rates of implantation and embryotoxicity were not affected by treatment. No teratogenic effects were observed; however, the study does not specify what developmental endpoints were examined. The NOAEL for maternal and developmental toxicity was 1,000 mg/kg/day (highest dose tested). There was no evidence of increased susceptibility in this developmental toxicity study in rats and mice.

In a second study, no maternal toxicity was observed at any dose tested. The maternal toxicity NOAEL was 3,000 mg/kg/day. The developmental NOAEL was 1,000 mg/kg/day based on omphalocele seen in the one fetus in the high dose group (LOAEL 3,000 mg/kg/day). The data suggest evidence of increased susceptibility in this developmental toxicity study in rats. However, there is a low concern for this susceptibility because this effect (omphalocele) was seen at a very high dose of 3,000 mg/kg/day and only in one fetus. In addition, the study did not provide historical controls that would assist in making determination whether this effect is treatment related or not.

The dietary assessment includes estimates using highly conservative model assumptions. In addition, the drinking water assessment was conducted using the highly conservative value of 100 ppb. These model estimates are highly conservative so as to not under estimate the risk.

3. *Conclusion*. EPA has determined that it does not have reliable data to vary from the default FQPA safety factor of 10X. EPA considered the following factors:

i. The database for 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl is incomplete. EPA lacks a 2–generation reproductive study or any study measuring reproductive performance parameters in male and female rats. EPA also does not have an immunotoxicity study. In a 90–day toxicity study in rats, slight increases in spleen weights without histopathological findings was observed at the highest dose tested (80 mg/kg/day). There was no other evidence of immunotoxicity in the database.

ii. No clinical signs of neurotoxicity were seen in any of the repeat dose studies. Therefore, 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl are not expected to be neurotoxic.

iii. As discussed above, there is low concern for increased sensitivity in the young from exposure to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl.

iv. The dietary assessment includes estimates using highly conservative model assumptions. In addition, the drinking water assessment was conducted using the highly conservative value of 100 ppb. Finally, the model estimates for residential exposure are highly conservative so as to not under estimate the risk. Of principal concern to EPA is the lack of a 2–generation reproductive study or any other study measuring reproductive performance parameters in male and female rats.

E. Aggregate Risks and Determination of Safety

Determination of safety section. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk*. An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl are not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure and the use limitation described previously in Unit C, the EPA has concluded that chronic exposure to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl)

benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl from food and water will be 0.3% of the cPAD for US populations and 2.8 % for non-nursing infants, the population group receiving the greatest exposure. Based on its use pattern, chronic residential exposure is not anticipated. Therefore, chronic residential exposure to residues of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl were not assessed.

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

2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl could potentially be used as an inert ingredient in pesticide products that may be registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl.

Using the exposure assumptions described in this unit for short-term exposures and the use limitation described previously in Unit C, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 7,100 for adult males and females. Adult residential exposure combines high end dermal and inhalation handler exposure from liquids/trigger sprayer in home gardens with a high end post application dermal exposure from contact with treated lawns. EPA has concluded the combined short-term aggregated food, water, and residential exposures result in an aggregate MOE of 10,000 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to mouth exposures). The EPA's level of concern for 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl is for MOEs that are lower than 1,000; therefore, these MOEs are not of concern.

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

2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl could potentially be used as inert ingredients in pesticide products that may be registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 55,000 for adult males and 54,000 for adult females. Adult residential exposure includes high end post application dermal exposure from contact with treated lawns. EPA has concluded the combined intermediate term aggregated food, water, and residential exposures result in an aggregate MOE of 16,000 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). The level of concern is for MOEs that are lower than 1,000; therefore, this MOE is not of concern.

5. *Aggregate cancer risk for U.S. population*. 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl are not expected to be carcinogenic since there was no evidence of carcinogenicity in the available studies.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole or Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl in or on any food commodities. EPA is establishing a limitation on the amount of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl that may be used in pesticide formulations. That limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. 136 *et seq*. EPA will not register any pesticide for sale or distribution that contains greater than 0.6% of 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole or Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl by weight in the pesticide formulation.

B. International Residue Limits

The Agency is not aware of any country requiring a tolerance for 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole or Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for 2-(2'-hydroxy-3', 5'-di-tert-amylphenyl) benzotriazole (CAS Reg. No. 25973–55–1) and Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl; (CAS Reg. No. 23328–53–2) when used as an inert ingredient [as an ultraviolet (UV) stabilizers at a maximum concentration of 0.6%] in insecticide formulations applied to adzuki beans, canola, chickpeas, cotton, faba beans, field peas, lentils, linola, linseed, lucerne, lupins, mung beans, navy beans, pigeon peas, safflower, sunflower, and vetch.

VII. Statutory and Executive Order Reviews

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

considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 9, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In §180.920, the table is amended by adding alphabetically the following inert ingredients to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
2-(2'-hydroxy-3',5'-di-tert-amylphenyl) benzotriazole (CAS Reg. No. 25973–55–1)	maximum concentration of 0.6% in insecticide formulations applied to adzuki beans, canola, chickpeas, cotton, faba beans, field peas, lentils, linola, linseed, lucerne, lupins, mung beans, navy beans, pigeon peas, safflower, sunflower, and vetch	Ultraviolet (UV) stabilizer
Phenol, 2-(2H-benzotriazole-2-yl)-6-dodecyl-4-methyl; (CAS Reg. No. 23328–53–2)	maximum concentration of 0.6% in insecticide formulations applied to adzuki beans, canola, chickpeas, cotton, faba beans, field peas, lentils, linola, linseed, lucerne, lupins, mung beans, navy beans, pigeon peas, safflower, sunflower, and vetch	Ultraviolet (UV) stabilizer

* * * * *

[FR Doc. 2010–20299 Filed 8–17–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0046; FRL–8836–4]

N-alkyl (C8-C18) Primary Amines and Acetate Salts; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *N*-alkyl (C8-C18) primary amines and acetate salts where the alkyl group is linear and may be saturated and/or unsaturated, herein referred to in this document as NAPAAS, when used as a surfactant and related adjuvants of surfactants for pre-harvest and post-harvest uses under 40 CFR 180.910 and application to animals under 40 CFR 180.930 at a maximum concentration in formulated end-use products of 10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products. The Joint Inerts Task Force (JITF), Cluster Support Team Number 25 submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of NAPAAS.

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0046. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Lisa Austin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7894; e-mail address: *austin.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*. To access the Harmonized Test Guidelines referenced in this document electronically, please go to *http://www.epa.gov/oppts* and select "Test Methods and Guidelines."

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0046 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2009–0046, by one of the following methods:

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

II. Petition for Exemption

In the **Federal Register** of February 4, 2010, (75 FR 5793) (FRL–8807–5), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 9E7627) by The JITF, Cluster Support Team 25 (CST 25), c/o CropLife

America, 1156 15th Street, NW., Suite 400, Washington, DC 20005. The petition requested that 40 CFR 180.910 and 40 CFR 180.930 be amended by establishing an exemption from the requirement of a tolerance for residues of NAPAAS when used as at surfactant and related adjuvants of surfactants in pesticide formulations applied to pre-harvest and post-harvest crops and animals. These uses are considered inert ingredients in pesticide products. The concentration in formulated end-use products not to exceed 10% by weight in herbicide products, 4% by weight in other pesticidal products. That notice referenced a summary of the petition prepared by the JITF, Cluster Support Team Number 25 (CST 25), the petitioner, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

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

Consistent with section 408(c)(2)(A) of FFDCA, and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for NAPAAS including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with NAPAAS follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by NAPAAS as well as the NOAEL and the LOAEL from the toxicity studies are discussed in this unit.

The available mammalian toxicology database for NAPAAS consists of one Harmonized Test Guideline 870.3650 (combined repeated dose toxicity study with the reproduction/developmental toxicity screening test in rats); acute oral, dermal, and eye toxicity data; and *in vitro* mutagenicity data.

The NAPAAS are not acutely toxic by the oral route of exposure but are corrosive to the skin and are severe eye irritants. There is no clear target organ identified for the NAPAAS. In the Harmonized Test Guideline 870.3650 study on the representative surfactant, treatment-related microscopic lesions were observed in both sexes, which included histomorphologic changes in the stomach (hyperplasia and hyperkeratosis of the squamous mucosa of the forestomach), and erosions, ulcers, inflammatory cell infiltrations, and/or edema in the submucosa of the forestomach and glandular areas of the mucosa. The accumulation of macrophages was most prevalent in the mesenteric lymph nodes and small intestine where they were large with an abundant amount of pale foamy cytoplasm. In the mesenteric lymph node and liver, coalescence of the large macrophages occurred forming microgranulomas. Thymic atrophy was observed in both sexes. Histologically, the thymus was smaller due to a decrease in the amount of cortical lymphocytes, which may be an indirect or secondary phenomenon, as thymic atrophy often occurs in animals under stress. No evidence of potential neurotoxicity was observed in females, and the reduced motor activity observed in the high-dose males was considered to be secondary to the gastrointestinal irritation and general malaise and not a neurotoxic effect.

There was no evidence of increased susceptibility to the offspring following prenatal and postnatal (four days) exposure and reproductive toxicity was not observed. There is no evidence of mutagenicity or carcinogenicity.

Primary amines and primary amine acetates are biologically equivalent and follow the same metabolic pathways of oxidation by monoamine oxidases to generate the C8–C10 fatty acid and ammonia. The fatty acid would be degraded by well-known pathways (β-oxidation) to successive releases of acetic acid, which enters into intermediary metabolism or is metabolized ultimately to carbon dioxide and water. The CST 25 NAPAAS primary amines and primary amine acetate salt may also be conjugated, whether by glucuronidation or sulfonation, and excreted directly.

There are no chronic toxicity studies available for this series of surfactants. The Agency used a qualitative structure activity relationship (SAR) database, DEREK 11, to determine if there were structural alerts suggestive of

carcinogenicity. No structural alerts were identified.

Specific information on the studies received and the nature of the adverse effects caused by the NAPAAS, as well as, the NOAEL and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in the document "*N*-Alkyl (C8–C18) Primary Amines and Acetate Salts (NAPAAS - JITF CST 25 Inert Ingredients). Health Risk Assessment to Support Proposed Exemption from the Requirement of a Tolerance When Used as Inert Ingredients in Pesticide Formulations," pp. 8-12 and 19-22 in docket ID number EPA–HQ–OPP–2009–0046.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level – generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD); and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for NAPAAS used for human risk assessment is discussed in Unit IV.A of the final rule published in the **Federal Register** of July 29, 2009, (74 FR 37578) (FRL–8428–9).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to NAPAAS, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from NAPAAS in food as follows:

i. *Acute exposure*. No adverse effects attributable to a single exposure of the NAPAAS inerts were seen in the toxicity databases; therefore, an acute exposure assessment for the NAPAAS is not necessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, no residue data were submitted for the NAPAAS. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high-use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled "Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts." (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

In the dietary exposure assessment, the Agency assumed that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation (if any) between the active and inert ingredient and that the concentration of inert ingredient in the scenarios leading to these highest of tolerances would be no higher than the concentration of the active ingredient.

The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk due to a series of compounded conservatisms. First, assuming that the level of residue for an inert ingredient is equal to the level of residue for the active ingredient will overstate exposure. The concentration of active ingredient in agricultural products is generally at least 50% of the product and often can be much higher. Further, pesticide products rarely have a single inert ingredient; rather there is generally a combination of different inert ingredients used which additionally reduces the concentration of any single inert ingredient in the pesticide product in relation to that of the active ingredient. In the case of NAPAAS, EPA made a specific adjustment to the dietary exposure assessment to account for the use limitations of the amount of NAPAAS that may be in formulations (to no more than 10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products) and assumed that the NAPAAS are present at the maximum limitation rather than at equal quantities with the active ingredient. This remains a very conservative assumption because surfactants are generally used at levels far below this percentage. For example, EPA examined several of the pesticide products associated with the tolerance/ commodity combination which are the driver of the risk assessment and found that these products did not contain surfactants at levels greater than 2.25% and that none of the surfactants were NAPAAS.

Second, the conservatism of this methodology is compounded by EPA's decision to assume that, for each commodity, the active ingredient which will serve as a guide to the potential level of inert ingredient residues is the active ingredient with the highest tolerance level. This assumption overstates residue values because it would be highly unlikely, given the high number of inert ingredients, that a single inert ingredient or class of ingredients would be present at the level of the active ingredient in the highest tolerance for every commodity. Finally, a third compounding conservatism is EPA's assumption that all foods contain the inert ingredient at the highest tolerance level. In other words, EPA assumed 100% of all foods are treated with the inert ingredient at the rate and manner necessary to produce the highest residue legally possible for an active ingredient. In summary, EPA chose a very conservative method for estimating what level of inert residue could be on food, then used this methodology to choose the highest possible residue that could be found on food and assumed that all food contained this residue. No consideration was given to potential degradation between harvest and consumption even though monitoring data shows that tolerance level residues are typically one to two orders of magnitude higher than actual residues in food when distributed in commerce.

Accordingly, although sufficient information to quantify actual residue levels in food is not available, the compounding of these conservative

assumptions will lead to a significant exaggeration of actual exposures. EPA does not believe that this approach underestimates exposure in the absence of residue data.

iii. *Cancer*. The Agency used a qualitative structure activity relationship (SAR) database, DEREK 11, to determine if there were structural alerts suggestive of carcinogenicity. No structural alerts for carcinogenicity were identified. The Agency has not identified any concerns for carcinogenicity relating to the inerts NAPAAS. Therefore a cancer dietary exposure assessment is not necessary to assess cancer risk.

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

2. *Dietary exposure from drinking water*. For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for NAPAAS, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

The Agency has reviewed the submitted petition as well as all available data on the use of these inert ingredients in pesticide formulations, and concludes that the NAPAAS inerts are not used in formulations that would be applied in and around the home or in a way that would result in residential exposures; therefore, a residential exposure risk assessment is not required for the NAPAAS inerts.

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

EPA has not found NAPAAS to share a common mechanism of toxicity with any other substances, and NAPAAS does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that NAPAAS does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. In the case of the NAPAAS, there was no increased susceptibility to the offspring of rats following prenatal and postnatal exposure in the Harmonized Test Guideline 870.3650 reproductive/developmental screening study. Decreased pup body weight was observed at 40 and 80 milligrams/kilogram/day (mg/kg/day) where maternal/paternal toxicity was manifested as microscopic lesions in the stomach, jejunum, thymus, and lymph nodes at 20, 40, and 80 mg/kg/day. Since the rat reproduction/developmental study identified a clear NOAEL of 20 mg/kg/day for offspring effects, and the selected point of departure of 5 mg/kg/day (parental NOAEL for stomach/jejunum/thymus/lymph node lesions) for the dietary risk assessment is protective of the offspring effects, there are no residual concerns.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for the NAPAAS inerts is considered adequate for assessing the risks to infants and children. The toxicity data available on the NAPAAS consists of one Harmonized Test Guideline 870.3650 combined repeated dose toxicity study with the reproduction/development toxicity screening test (rat); acute oral, dermal, and eye toxicity data; and *in vitro* mutagenicity data. The Agency noted changes in thymus weight and thymus atrophy. However, these were determined to be non-specific changes not indicative of immunotoxicity. In addition, no blood parameters were affected. Furthermore, these compounds do not belong to a class of chemicals that would be expected to be immunotoxic. Therefore, these identified effects do not raise a concern necessitating an additional uncertainty.

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

iii. There is no evidence that NAPAAS results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The food exposure assessments are considered to be highly conservative as they are based on the use of the highest tolerance level from the surrogate pesticides for every food and 100 PCT is assumed for all crops. EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to NAPAAS in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by NAPAAS.

E. Aggregate Risks and Determination of Safety

Determination of safety section. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk*. An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from

a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, NAPAAS is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to NAPAAS from food and water will utilize 106% of the cPAD for children 1-2 years old, the population group receiving the greatest exposure. There are no residential uses for NAPAAS.

3. *Aggregate cancer risk for U.S. population*. The Agency has not identified any concerns for carcinogenicity relating to NAPAAS.

4. *Determination of safety*. EPA notes that the risk for children is slightly above a cPAD of 100%. The dietary exposure estimates overstate dietary risk because it assumes that the NAPAAS are present at the maximum limitation (10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products) because surfactants are generally used at levels far below these percentages. EPA examined several of the pesticide products associated with the tolerance/commodity combinations which are the drivers of the risk assessment and found that these products did not contain surfactants at levels greater than 2.25% and that none of the surfactants were NAPAAS. Therefore, given the exceptionally conservative nature of the exposure assessment, EPA believes that actual risks are significantly lower and are not of concern. Based on this risk assessment, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to NAPAAS residues.

V. Other Considerations

A. Analytical Enforcement Methodology

EPA is establishing a limitation on the amount of NAPAAS that may be used in end-use pesticide formulations. That limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. EPA will not register any pesticide for sale or distribution that contains a maximum concentration in formulated end-use products of NAPAAS greater than 10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products.

B. International Residue Limits

The Agency is not aware of any country requiring a tolerance for NAPAAS nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 and 40 CFR 180.930 for *N*-alkyl (C8-C18) primary amines and acetate salts where the alkyl group is linear and may be saturated and/or unsaturated when used as an inert ingredient (surfactant and related adjuvants of surfactants) in pesticide formulations applied to pre-harvest and post-harvest crops and animals at a maximum concentration in formulated end-use products of 10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products.

VII. Statutory and Executive Order Reviews

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

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

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 9, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In §180.910, the table is amended by adding alphabetically the following inert ingredients to read as follows:

§ 180.910 N-alkyl (C8-C18) primary amines and accetate salts; Exemption from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* * *	*
N-alkyl (C8-C18) primary amines and their acetate salts where the alkyl group is linear and may be saturated and/or unsaturated (CAS Reg. Nos. 61790-57-6, 61790-58-7, 61790-59-8, 61790-60-1, 61788-46-3, 61790-33-8, 68155-38-4)	Concentration in formulated end-use products not to exceed 10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products.	Surfactants, related adjuvants of surfactants
* * *	* * *	*

■ 3. In §180.930, the table is amended by adding alphabetically the following inert ingredients to read as follows:

§ 180.930 N-alkyl (C8-C18) primary amines and accetate salts; Exemption from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* * *	*
N-alkyl (C8-C18) primary amines and their acetate salts where the alkyl group is linear and may be saturated and/or unsaturated (CAS Reg. Nos. 61790-57-6, 61790-58-7, 61790-59-8, 61790-60-1, 61788-46-3, 61790-33-8, 68155-38-4)	Concentration in formulated end-use products not to exceed 10% by weight in herbicide products, 4% by weight in insecticide products, and 4% by weight in fungicide products.	Surfactants, related adjuvants of surfactants
* * *	* * *	*

[FR Doc. 2010–20300 Filed 8–17–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0474; FRL–8838–9]

Diethylene Glycol (DEG); Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of diethylene glycol (DEG) (CAS No. 111–46–6) when used as an inert ingredient as a solvent, stabilizer and/or antifreeze within pesticide formulations without limitation, under 40 CFR 180.920, for use on growing crops and raw agricultural commodities pre-harvest Huntsman, Dow AgroSciences L.L.C., Nufarm Americas Inc., BASF, Stepan Company, Loveland Products Inc., and Rhodia Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of DEG.

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0474. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Lisa Austin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7894; e-mail address: *austin.lisa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to

assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/oppts* and select "Test Methods and Guidelines."

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0474 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0474, by one of the following methods:

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

II. Petition for Exemption

In the **Federal Register** of July 9, 2008 (73 FR 39289) (FRL–8371–2), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 8E7355) by Huntsman, Dow AgroSciences L.L.C., Nufarm Americas Inc., BASF, Stepan Company, Loveland Products Inc., and Rhodia Inc. The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of DEG (CAS No. 111–46–6) when used as an inert ingredient for use as a solvent, stabilizer and/or antifreeze without limitation in pesticide formulations applied to use on growing crops and raw agricultural commodities pre-harvest. That notice referenced a summary of the petition prepared by Huntsman, Dow AgroSciences L.L.C., Nufarm Americas Inc., BASF, Stepan Company, Loveland Products Inc., and Rhodia Inc., the petitioners, which is available in the docket, *http://www.regulations.gov*. The Agency received one comment in response to the notice of filing. The comment was received from a private citizen who opposed the authorization to sell any pesticide that leaves a residue on food. The Agency understands the commenter's concerns and recognizes that some individuals believe that no residue of pesticides should be allowed. However, under the existing legal framework provided by section 408 of FFDCA, EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by the statute.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

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

Consistent with section 408(c)(2)(A) of FFDCA, and the factors specified in FFDCA section 408(c)(2)(B), EPA has

reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for DEG including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with DEG follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by DEG as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

DEG has low acute toxicity via the oral route in animals. It has low acute toxicity via the dermal route. Data were not available regarding dermal irritation and sensitization. Data on humans show that the probable LD_{50} of DEG is approximately 0.5-5 gram/kilogram (g/kg) and that it is not irritating to the eyes or skin. However, a man developed allergic dermatitis 2–4 weeks after smoking cigarettes containing DEG. He also had a local reaction in a 24 hours covered patch test with DEG.

In subchronic oral studies in animals, the kidney, liver and hematopoietic systems were most often the target organs. In subchronic studies, males were more susceptible to kidney toxicity. Kidney lesions occurred in the range of 100 to 180 milligrams/kilograms/day (mg/kg/day) and were manifested as tubular damage. DEG caused increased size and hydropic changes in the liver and oxalate crystals were found in the urinary bladder and kidney at >100 mg/kg/day. The NOAEL for DEG in the subchronic rat study was 50 mg/kg/day, based on increased urinary oxalate at 100 mg/kg/day. Some subchronic studies available in the literature show kidney toxicity at very high doses. In addition, kidney toxicity was only evident at very high doses in chronic studies.

Several developmental studies in rodents were available for review. In these studies, maternal and developmental toxicity occurred at doses (> 1,118 mg/kg/day) that were above the limit dose of 1,000 mg/kg/day. Two reproduction toxicity studies in rodents were available for review. Again, maternal and offspring toxicity was observed at high doses (> 1,500 mg/kg/day).

Several mutagenicity studies (Ames test and chromosome aberration) with DEG were available for review. The TA104 strain was slightly positive in one assay with metabolic activity. All *in vivo* assays were negative. Therefore, based on the overall weight of evidence, DEG is not considered mutagenic.

In chronic oral studies, the kidney, liver and hematopoietic systems were most often the target organs. In chronic studies, kidney neuropathy occurred at dosages of greater than 920 mg/kg/day and was manifested as epithelial necrosis of the renal tubules. Bladder tumors were observed at > 1,500 mg/kg/day; however, these tumors were associated with irritation from bladder stones. The physiochemical properties of DEG cause crystal formation and deposition in the kidneys which leads to irritation, stone formation, kidney damage and tumor formation. Therefore, protecting from crystal formation would be protective of subsequent kidney damage and tumor formation. Also, a Soviet study reported no evidence of cancer in a group of 90 workers exposed to DEG for 1 to 9 years. In addition, DEG is not listed as a carcinogen byAmerican Conference of Industrial Hygienist,(ACGIH), International Agency for Research on Cancer (IARC), National Toxicology Program,(NTP) or California Proposition 65.

Metabolism studies demonstrated that DEG was rapidly absorbed and primarily excreted via the urine.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level – generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD) – and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

The available toxicity studies suggest that the DEG manifested toxicity appears to occur following high repeated doses. In developmental toxicity study in rats, mice and rabbits, the clear NOAELs were observed at doses 559 mg/kg/day and above. In reproduction studies in mice and rats, the lowest NOAEL was 300 mg/kg/day (highest dose tested) and one study in mice had a NOAEL of 610 mg/kg/day with a LOAEL of 3,060 mg/kg/day. The NOAEL for carcinogenicity studies in rats was 1,000 mg/kg/day and above. One chronic toxicity study in rats had a LOAEL of 1,000 mg/kg/day. The subchronic studies gave confounding results in terms of NOAEL for the study. In a subchronic study in rats (feeding), the reported NOAEL was 400 mg/kg/day and the second study in rats reported the NOAEL of 50 mg/kg/day. However, in other studies reported in the literature, no overt toxicity was observed in 20 mice/sex maintained on a diet containing 5.2 g/kg bw/day for 15 to 18 weeks. Kidney and liver damage occurred in rabbits given DEG by gavage or in drinking water at about 15 gram/kilograms bodyweight/day (g/kg bw/day) for up to 28 days, and also in guinea-pigs, cats and dogs subjected to similar exposures. Based on the overall weight of evidence from all studies, a NOAEL of 100 mg/kg/day is considered protective for DEG-mediated toxicity for estimating risk via all routes of exposure. In the absence of inhalation studies, 100% inhalation is assumed. The dermal absorption factor of 25% was estimated based on dermal absorption of structurally similar compound for converting oral to dermal equivalent dose.

Bladder tumors were observed following treatment with DEG at doses > 1,500 mg/kg/day. However, these tumors appear to be secondary to irritation and regenerative proliferation associated with the formation of urinary tract crystals/calculi. This is commonly seen for bladder carcinogenesis in rodents for non-genotoxic chemicals of the sulfonamide class. Since DEG presents no concern for mutagenicity and based on knowledge about other chemicals, EPA considers DEG as not

likely to be a human carcinogen. The cRfD (1.0 mg/kg/day) was established based on these precursor effects observed at >300 mg/kg/day. Therefore, the cRfD is considered adequately protective of any cancer or pre-cancerous effects seen in the carcinogenicity studies.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to DEG, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from DEG in food as follows:

i. *Acute exposure*. No adverse effects attributable to a single exposure of DEG were seen in the toxicity databases. Therefore, an acute dietary risk assessment for DEG is not necessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, no residue data were submitted for DEG. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled "Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts," (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

In the dietary exposure assessment, the Agency assumed that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation (if any) between the active and inert ingredient and that the concentration of inert ingredient in the scenarios leading to these highest levels of tolerances would be no higher than the concentration of the active ingredient.

The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk due to a series of compounded conservatisms. First, assuming that the level of residue for an inert ingredient is equal to the level of residue for the active ingredient will overstate exposure. The concentrations of active ingredient in agricultural products are generally at least 50 percent of the product and often can be much higher. Further, pesticide products rarely have a single inert ingredient; rather there is generally a combination of different inert ingredients used which additionally reduces the concentration of any single inert ingredient in the pesticide product in relation to that of the active ingredient.

Second, the conservatism of this methodology is compounded by EPA's decision to assume that, for each commodity, the active ingredient which will serve as a guide to the potential level of inert ingredient residues is the active ingredient with the highest tolerance level. This assumption overstates residue values because it would be highly unlikely, given the high number of inert ingredients, that a single inert ingredient or class of ingredients would be present at the level of the active ingredient in the highest tolerance for every commodity. Finally, a third compounding conservatism is EPA's assumption that all foods contain the inert ingredient at the highest tolerance level. In other words, EPA assumed 100 percent of all foods are treated with the inert ingredient at the rate and manner necessary to produce the highest residue legally possible for an active ingredient. In summary, EPA chose a very conservative method for estimating what level of inert residue could be on food, then used this methodology to choose the highest possible residue that could be found on food and assumed that all food contained this residue. No consideration was given to potential degradation between harvest and consumption even though monitoring data shows that tolerance level residues are typically one to two orders of magnitude higher than actual residues in food when distributed in commerce.

Accordingly, although sufficient information to quantify actual residue levels in food is not available, the compounding of these conservative assumptions will lead to a significant exaggeration of actual exposures. EPA does not believe that this approach underestimates exposure in the absence of residue data.

iii. *Cancer*. As discussed in this unit, the Agency has not identified any concerns for carcinogenicity relating to DEG, and, therefore, a dietary exposure assessment to assess cancer risk is unnecessary.

2. *Dietary exposure from drinking water*. For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for DEG, a conservative drinking water concentration value of 100 parts per billion based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

The term "'residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). DEG may be used in inert ingredients in products that are registered for specific uses that may result in residential exposure. A screening level residential exposure and risk assessment was completed for products containing DEG as inert ingredients. The DEG inerts may be present in consumer personal (care) products and cosmetics. The Agency selected representative scenarios, based on end-use product application methods and labeled application rates. The Agency conducted an assessment to represent worst-case residential exposure by assessing DEG in pesticide formulations (Outdoor Scenarios) and DEG in disinfectant-type uses (Indoor Scenarios). The Agency is not aware of any use of DEG in hard surface cleaning products. However, this scenario was used for this assessment considering wide use of DEG in other products. Therefore, the Agency assessed the disinfectant-type products containing DEG using exposure scenarios used by the Antimicrobials Division in EPA's Office of Pesticide Programs to represent worst-case residential handler exposure. Further details of this residential exposure and risk analysis can be found at *http://www.regulations.gov* in the memorandum entitled: "JITF Inert Ingredients. Residential and Occupational Exposure Assessment Algorithms and Assumptions Appendix for the Human Health Risk Assessments to Support Proposed Exemption from the Requirement of a Tolerance When Used as Inert Ingredients in Pesticide

Formulations," (D364751, 5/7/09, Lloyd/LaMay in docket ID number EPA–HQ–OPP–2008–0710.

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

EPA has not found DEG to share a common mechanism of toxicity with any other substances, and DEG does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that DEG does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. There was no evidence of increased susceptibility of infants and children following prenatal exposure to DEG in mice, and rabbits. In mice and rabbits, the maternal or developmental toxicity were seen at or above the limit dose except in one study in mice where the maternal toxicity NOAEL was 559 mg/kg/day and developmental toxicity NOAEL was 2,759 mg/kg/day. In these studies with mice and rabbits, developmental effects were observed in the presence of maternal toxicity or at a dose above the dose that produced maternal toxicity. There was some evidence of increased susceptibility in the rat developmental toxicity study. In the rat developmental toxicity study, the maternal NOAEL was 4,472 mg/kg/day and the developmental NOAEL was 1,178 mg/kg/day. However, the concern for this increased susceptibility was low since the skeletal variations were seen at dose level above the limit dose.

Several reproduction studies are available in the database. The effects seen in these studies are characterized as high dose effects. There was no evidence of increased susceptibility of infants and children following prenatal and postnatal exposure to DEG in mice and rats except in one study in mice. In one reproduction study in mice (drinking water), the NOAEL for developmental toxicity was 610 mg/kg/day and the LOAEL was 3,060 mg/kg/day. The maternal toxicity NOAEL in the mice reproduction was 2,060 mg/kg/day. The reproduction study in mice suggest some evidence of increased susceptibility, however, the concern is low because the developmental effects were seen at 3 times higher dose than the limit dose of 1,000 mg/kg/day. Overall, based on available data in mice, rats and rabbits, the concern for isolated susceptibility is low because the increased susceptibility was seen at or above the limit dose and they were not reproduced in other studies conducted in same species.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for DEG is adequate. The following acceptable studies are available: Developmental toxicity studies in mice, rats and rabbits, reproduction study in mice and rats and subchronic and chronic studies including carcinogenicity studies and mutagenicity studies.

ii. Clinical signs of neurotoxicity were reported in acute studies conducted at very high doses. However, no significant clinical signs were observed in repeated dose studies and no increased susceptibility was seen in the available developmental or reproduction studies at doses below the limit dose of 1,000 mg/kg/day. Based on overall weight of evidence, EPA concluded that the developmental neurotoxicity is not required.

iii. There was no evidence of increased susceptibility of infants and children following prenatal exposure to DEG in mice, and rabbits.

The developmental study in the rat and reproduction study in mice suggest some evidence of increased susceptibility of infants and children, however, the concern is low because the developmental effects were seen at higher doses than the limit dose of 1,000 mg/kg/day and there is a clear NOAEL established in these studies. Overall, based on available data in mice, rats and rabbits, the concern for isolated susceptibility is low because the increased susceptibility was seen at or above the limit dose and they were not reproduced in other studies conducted in same species.

iv. Signs of potential immunotoxicity were not observed in any of the submitted studies.

v. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on the assumptions of 100% crop treated and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to DEG in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by DEG.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, DEG is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to DEG from food and water will utilize 0.62% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water

(considered to be a background exposure level).

DEG is currently used as an inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to DEG.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 132 for both adult males and females. Adult residential exposure combines high end dermal and inhalation handler exposure from indoor hand wiping with a high end post application dermal exposure from contact with treated lawns. EPA has concluded the combined short-term aggregated food, water, and residential exposures result in an aggregate MOE of 114 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). As the level of concern is for MOEs that are lower than 100, these MOEs are not of concern.

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

DEG is currently used as an inert ingredient in pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to DEG.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 388 for adult males and females. Adult residential exposure includes high end post application dermal exposure from contact with treated lawns. EPA has concluded the combined intermediate-term aggregated food, water, and residential exposures result in an aggregate MOE of 133 for children. Children's residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). Because EPA's level of concern for DEG is a MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population*. DEG is not expected to be carcinogenic since there were no triggers for carcinogenicity in the published study and a lack of systemic toxicity in the 1–generation reproduction study in rats as well as a negative response for mutagenicity.

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

V. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

The Agency is not aware of any country requiring a tolerance for DEG nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for DEG (Cas No. 111–46–6) when used as an inert ingredient (as a solvent, stabilizer and/or antifreeze within pesticide formulations/products without limitation) in pesticide formulations applied to growing crops and raw agricultural commodities pre-harvest.

VII. Statutory and Executive Order Reviews

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

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

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

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

VIII. Congressional Review Act

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

a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: August 6, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. In §180.920, in the table, add alphabetically the following inert ingredient to read as follows:

§ 180.910 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* *	* *
Diethylene Glycol (CAS No. 111–46–6)	Without limitation	Solvent, stabilizer and/or anti-freeze
* * *	* *	* *

[FR Doc. 2010–20318 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0541; FRL–8841–1]

Mancozeb; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of mancozeb in or on multiple commodities which are identified and discussed later in this document. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, this action establishes a time-limited tolerance for residues of mancozeb in or on walnuts in response to the approval of a specific exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing the use of mancozeb on walnuts to control walnut blight. This regulation establishes a maximum permissible level of residues of mancozeb in walnuts. The time-limited tolerance on walnuts expires and is revoked on December 31, 2013. Also, this action revises the introductory text of paragraphs (a) and (b).

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0541. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Andrew Ertman, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703)308–9367; e-mail address: *ertman.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*

C. How Can I File an Objection or Hearing Request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2005–0541 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2005–0541, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P),

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of March 15, 2006 (71 FR 13389) (FRL–7767–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 3E4173, 5E4570, 9E5054, and 9E5061) by the Interregional Research Project Number 4 (IR-4), 681 US Highway No. 1 South, North Brunswick, NJ 08902–3390. The petitions requested that 40 CFR 180.176 be amended by establishing tolerances for residues of the fungicide mancozeb, zinc manganese ethylenebis dithiocarbamate, in or on the following commodities: (PP 3E4173) cucurbit vegetable crop group 9 at 4.0 parts per million (ppm); (PP 5E4570) mango, star apple (caimito), canistel, mamey sapote, sapodilla, and white sapote at 15.0 ppm; (PP 9E5054) ginseng at 2.0 ppm; (PP 9E5061) sugar apple, cherimoya, atemoya, custard apple, and sweetsop at 3.0 ppm. The notice included a summary of the petitions prepared by Dow AgroSciences, the registrant. However, in the **Federal Register** of September 16, 2009, (74 FR 47504) (FRL–8431–4) in a document titled "Mancozeb, Maneb, Metiram, and Thiram; Proposed Tolerance Actions," EPA proposed establishing tolerances for ginseng at 1.2 ppm, removing the existing tolerances for cucumber, melon and summer squash and establish a tolerance for the vegetable, cucurbit group 9 at 2.0 ppm, and revising the tolerance expression in § 180.176. The reasons why EPA determined the tolerances for ginseng and cucurbit vegetable crop group 9 should be different from the original IR-4 petition as well as the rationale for changing the tolerance expression are explained in Unit V.D.

EPA did not receive comments on the notice of March 15, 2006 but comments were received on the proposed rule of September 16, 2009. EPA's response to these comments is discussed in Unit V.C.

EPA is not establishing a tolerance for sweetsop. The reason why is explained in Unit V.D.

Separate from the actions being taken in response to the IR-4 petitions, EPA is also establishing a time-limited tolerance for residues of mancozeb in or on walnuts at 0.015 ppm in connection with an emergency use of mancozeb approved under FIFRA. This tolerance expires and is revoked on December 31, 2013.

III. Emergency Exemption for Mancozeb on Walnuts and FFDCA Tolerances

Walnut blight is a bacterial disease caused by *Xanthomonas campestris pv.juglandis*. It can result in severe economic losses due to undeveloped walnuts or early walnut-drop when the pathogen is present with free moisture during flowering and early nut development. Historically, walnut blight was managed by the application of copper products. Copper-resistant pathogens were found in some orchards and walnut losses in these orchards increased. Maneb was found to effectively manage walnut blight, and thus reduce walnut losses, where copper-resistant populations occurred and EPA has allowed use of maneb on walnut under an emergency exemption on a longstanding basis in the State of California. However, registrants have requested all products containing the active ingredient maneb be cancelled. Additionally, the Agency has been notified by the EBDC Task Force that there are no existing stocks of products containing maneb available for use on walnuts during 2010. Therefore, for the 2009-2010 growing season, the State of California requested an emergency exemption for use of mancozeb. This is the first time that California has requested mancozeb for this use. It represents an equivalent agricultural tool since mancozeb and maneb are related compounds.

After having reviewed the submission, EPA determined that an emergency condition exists for California, and that the criteria for approval of an emergency exemption are met. EPA has authorized a specific exemption under FIFRA section 18 for the use of mancozeb on walnuts for control of walnut blight in California.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of mancozeb in or on walnuts. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although this time-limited tolerance expires on December 31, 2013, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on walnuts after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this time-limited tolerance at the time of that application. EPA will take action to revoke this time-limited tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is

reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for mancozeb including exposure resulting from the tolerances established by this action.

Mancozeb is a member of the ethylene bisdithiocarbamate (EBDC) group of fungicides that also includes the related active ingredients maneb and metiram. Mancozeb, maneb and metiram, are all metabolized to ethylenethiourea (ETU) in the body and all degrade to ETU in the environment. Therefore, EPA has considered the aggregate or combined risks from food, water and non-occupational exposure resulting from mancozeb alone and ETU from all sources (i.e., the other EBDC fungicides) for this action.

EPA completed the Reregistration Eligibility Decision (RED) for mancozeb in September, 2005 (*http://www.epa.gov/oppsrrd1/REDs/mancozeb_red.pdf*). The Agency determined that most uses for the active ingredient mancozeb were eligible for reregistration provided that the risk mitigation measures identified in the RED were adopted and labels were amended to reflect these measures. Certain uses (foliar use on cotton, use on pineapple seed pieces, use on residential lawns/turf, use on athletic fields/turf, and use on pachysandra) were not eligible for reregistration and have since been voluntarily canceled by mancozeb registrants and deleted from all mancozeb labels.

In assessing mancozeb risk for the RED, EPA included the uses associated with the petitions submitted by IR-4 to establish tolerances for residues of mancozeb on cucurbit vegetable crop group 9 (PP 3E4173), mango, star apple, canistel, mamey sapote, sapodilla, white sapote (PP 5E4570), ginseng (PP 9E5054), sugar apple, cherimoya, atemoya, custard apple, and sweetsop (PP 9E5061). Additionally, EPA considered exposure to residues of mancozeb on walnut in connection with a pending petition (PP 5F4582) submitted by the registrant. No action was taken on these petitions until the mitigation measures outlined in the RED were implemented and existing stocks for the cancelled uses moved through the channels of trade. The registrant later withdrew the petition request to establish tolerances for mancozeb on walnuts.

While these mitigation measures were being implemented several things changed regarding the mancozeb/ETU risk profile. First, EPA determined that it was appropriate to retain the 10X FQPA Safety Factor for acute dietary risk due to lack of the developmental neurotoxicity study. Second, the registrant submitted additional petitions in 2004 that were not considered in the RED to establish tolerances for residues of mancozeb in or on almond (PP 4F4324), cabbage, leaf lettuce, peppers and broccoli (PP 4F4333). Therefore, based on these changes, EPA conducted an additional risk assessment in 2007 for mancozeb which assessed all uses (refer to risk assessment in the Docket EPA–HQ–OPP–2005–0541 titled "Mancozeb: Human Health Risk Assessment to Support Proposed New Uses on Broccoli, Cabbage, Lettuce, Peppers and Almonds").

To date, EPA is still working to refine the risk assessment for ETU which incorporates the pending new uses for mancozeb that were submitted to EPA in 2004 (almond, cabbage, leaf lettuce, peppers and broccoli). In the meantime, EPA is moving forward to establish a time-limited tolerance on walnut to support the emergency exemption as well as establish permanent tolerances for cucurbit vegetable group 9, mango, star apple, canistel, mamey sapote, sapodilla, white sapote, ginseng, sugar apple, cherimoya, atemoya, and custard apple. EPA is relying on an assessment conducted for mancozeb in 2007 (refer to risk assessment in the Docket EPA–HQ–OPP–2005–0541 titled "Mancozeb: Human Health Risk Assessment to Support Proposed New Uses on Broccoli, Cabbage, Lettuce, Peppers and Almonds"), an assessment for ETU from 2007 (for short- and intermediate-term aggregate exposures; refer to risk assessment in the Docket EPA–HQ–OPP–2005–0541 titled "Ethylenethiourea (ETU) from EBDCs: Health Effects Division (HED) Human Health Risk Assessment of the Common Metabolite/Degradate ETU"), and the assessment completed in the RED for exposures to ETU since that is still valid and accounts for exposure to all of the commodities discussed in this rule (refer to risk assessment in the Docket EPA–HQ–OPP–2005–0176 titled "ETU from EBDCs: Health Effects Division (HED) Human Health Risk Assessment of the Common Metabolite/Degradate ETU to Support Reregistration"). Since the 2007 ETU assessment includes the use on almond, cabbage, leaf lettuce, peppers and broccoli, uses for which tolerances do not exist and are not being established at this time, the estimates for short- and intermediate-term aggregate risk for ETU are likely overestimates.

It is also important to note that since most products for maneb have been cancelled or will be shortly and there are limited existing stocks for maneb still in the channels of trade, the risk assessments for ETU likely overestimate the exposures to this common metabolite. Additionally, the risk estimates for mancozeb include uses for which tolerances do not exist and are not being established at this time, and therefore, the numbers reported are an over estimate of the potential risks.

EPA's assessment of exposures and risks associated with mancozeb and ETU follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In addition to evaluating mancozeb, EPA also evaluated the risks of ETU, a contaminant, metabolite and degradation product of mancozeb and the other EBDC group of fungicides, which includes the related active ingredients metiram and maneb.

1. *Mancozeb.* Mancozeb is not acutely toxic via the oral, dermal or inhalation routes of exposure. Further, mancozeb is not a skin irritant nor is it a skin sensitizer, although it does cause mild eye irritation. The findings in multiple studies demonstrate that the thyroid is a target organ for mancozeb. Thyroid toxicity was manifested as alternations in thyroid hormones, increased thyroid weight, and microscopic thyroid lesions (mainly thyroid follicular cell hyperplasia). These effects are due to the ETU metabolite. In a subchronic study in the rat, neuropathology was seen (injury to peripheral nerves) microscopically with associated clinical signs (abnormal gait and limited use of rear legs) and loss of muscle mass. An acute neurotoxicity study with mancozeb has been completed and

reviewed since the last risk assessment; neuropathology was not observed, and minimal effects upon motor activity were observed at high doses. The Agency conducted a preliminary dietary assessment using a point-of-departure from this study and found no risk concerns. Other toxicity included increases in bilateral retinopathy in the chronic rat study. Elevated cholesterol and a mild, regenerative, anemia occurred in subchronic and chronic dog studies.

Mancozeb is rapidly absorbed and eliminated in the urine. In oral rat metabolism studies with radiolabelled mancozeb and other EBDCs, an average 7.5% *in vivo* metabolic conversion of EBDC to ETU occurred, on a weight-to-weight basis. Metabolism data indicate mancozeb does not bio-accumulate. Mancozeb has been tested in a series of *in vitro* and *in vivo* genotoxicity assays, which have shown that it exhibits weak genotoxic potential.

Thyroid follicular cell adenomas and carcinomas were increased in high-dose males and females in the combined rat toxicity/carcinogenicity study with mancozeb. Doses in a mouse study were too low to assess carcinogenicity, and there were no treatment-related changes in tumor rates. Historically, mancozeb's potential for carcinogenicity has been based on its metabolite ETU, which is classified as a probable human carcinogen. However, since ETU is known to be the chemical causing the thyroid tumors observed, the cancer assessment has been done only for ETU rather than the parent compound.

Developmental defects in the rat developmental toxicity study included hydrocephaly, skeletal system defects, and other gross defects which occurred at a dose causing maternal mortality and did not indicate increased susceptibility of offspring. Abortions occurred in the rabbit developmental toxicity study at the high dose which also caused maternal mortality, and there was no indication of enhanced susceptibility of offspring in the rabbit. There was no evidence of reproductive toxicity in the 2-generation reproduction study in rats.

2. *ETU*. The thyroid is a target organ for ETU; thyroid toxicity in subchronic and chronic rat, mouse, and dog studies included decreased levels of T4, increases or decreases in T3, compensatory increases in levels of TSH, increased thyroid weight, and microscopic thyroid changes, chiefly hyperplasia. Overt liver toxicity was observed in one chronic dog study. ETU is classified as a probable human carcinogen based on liver tumors in female mice.

Developmental defects in the rat developmental study were similar to those seen with mancozeb, and included hydrocephaly and related lesions, skeletal system defects, and other gross defects. These defects showed increased susceptibility to fetuses because they occurred at a dose which only caused decreased maternal food consumption and body weight gain.

Specific information on the studies received and the nature of the toxic effects caused by mancozeb as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at www.regulations.gov in the document titled "Mancozeb: Human Health Risk Assessment to Support Proposed New Uses on Broccoli, Cabbage, Lettuce, Peppers and Almonds," pp. 13-15 in docket ID number EPA–HQ–OPP–2005–0541.

Additionally, specific information on the studies received and the nature of the toxic effects caused by ETU as well as the NOAEL and the LOAEL from the toxicity studies can be found at www.regulations.gov in document titled "ETU from EBDCs: Health Effects Division (HED) Human Health Risk Assessment of the Common Metabolite/Degraduate ETU to Support Reregistration. Chemical ID No. 600016. DP Barcode No. D305129," pp. 9-11 in docket ID number EPA–HQ–OPP–2004–0078.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level – generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD) – and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for mancozeb and ETU used for human risk assessment is shown in Tables 1 and 2 of this unit.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR MANCOZEB FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	Point of Departure and Uncertainty/Safety Factors	RfD, PAD, LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary (Females 13–50 years of age)	NOAEL = 128 milligrams/kilograms/day (mg/kg/day) UF_A =10x UF_H = 10x UF_{DB}=10x	Acute RfD = 0.13 mg/kg/day Acute PAD = 0.13 mg/kg/day	Developmental Toxicity in the rat LOAEL = 512 mg/kg/day based on hydrocephaly and other malformations
Acute dietary (General population including infants and children)	No appropriate endpoint was identified from oral toxicity studies.		

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR MANCOZEB FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/Scenario	Point of Departure and Uncertainty/ Safety Factors	RfD, PAD, LOC for Risk Assessment	Study and Toxicological Effects
Chronic dietary (All populations)	NOAEL= 4.83 mg/kg/day UF_A = 10x UF_H = 10x UF_{DB}=10x	Chronic RfD = 0.005 mg/ kg/day Chronic PAD = 0.005 mg/ kg/day	Toxicity/Carcinogenicity in the rat LOAEL = 30.9 mg/kg/day based thyroid toxicity (changes in thyroid hormone levels, microscopic thyroid changes and changes in thyroid weights)
Incidental oral short- or intermediate term (1 to 30 days)	NOAEL= 9.24 mg/kg/day UF_A = 10x UF_H = 10x UF_{DB}=10x	LOC for MOE = 1,000	Subchronic Toxicity Study in the rat LOAEL = 17.82 mg/kg/day based on decreased T4
Dermal short- and intermediate term (1 to 30 days)	Mancozeb has low dermal absorption. No systemic toxicity observed via the dermal route at 1,000 mg/ kg/day. Developmental effects were noted at doses much higher than those where systemic toxicity was observed in the maternal animals (in oral studies) indicating that developmental effects will not occur below 1,000 mg/kg/day the limit dose, from dermal exposure.		
Dermal long-term	Dermal (or oral) study NOAEL= 4.83 mg/kg/day (dermal absorption rate = 1% UF_A = 10x UF_H = 10x UF_{DB}=10	LOC for MOE = 1,000	Toxicity/Carcinogenicity in the rat LOAEL = 30.9 mg/kg/day based on thyroid toxicity (changes in thyroid hormone levels, microscopic thyroid changes and changes in thyroid weights)
Inhalation short-, intermediate-, or long-term	NOAEL = 0.079 mg/L [equivalent to 21 mg/kg/day] UF_A = 10x UF_H = 10x UF_{DB}=10x	LOC for MOE = 1,000	Subchronic Inhalation in the rat LOAEL = 0.326 mg/L based on thyroid hyperplasia and decreased T4 (females)
Cancer (Oral, dermal, inhalation)	Mancozeb's potential for carcinogenicity is due to the formation of the metabolite ETU which is classified as a probable human carcinogen. Mancozeb's cancer risk is calculated by estimating exposure to mancozeb-derived ETU and using the ETU cancer potency factor (Q_1*) of 6.01 x 10^{-2} $(mg/kg/day)^{-1}$ to provide a quantitative estimate of risk.		

UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL. UF_S = use of a short-term study for long-term risk assessment. UF_{DB} = to account for the absence of data or other data deficiency. FQPA SF = Food Quality Protection Act Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ETU FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	Point of Departure and Uncertainty/ Safety Factors	RfD, PAD, LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary (Females 13–50 years of age)	NOAEL = 5 milligrams/kilograms/day (mg/kg/day) UF_A = 10x UF_H = 10x UF_{DB}=10x	Acute RfD = 0.005 mg/kg/day Acute PAD = 0.005 mg/kg/day	Developmental Toxicity in the rat (Khera Study, MRID No. 45937601) LOAEL = 10 mg/kg/day based on developmental defects of the brain
Acute dietary (General population including infants and children)	No appropriate endpoint attributable to a single exposure (dose) was identified.		
Chronic dietary (All populations)	NOAEL= 0.18 mg/kg/day UF_A = 10x UF_H = 10x UF_{DB}= 10x	Chronic RfD = 0.0002 mg/kg/ day Chronic PAD = 0.0002 mg/kg/ day	Chronic Oral Toxicity in the dog. LOAEL = 1.99 mg/kg/day based on thyroid toxicity (increased thyroid weight and macroscopic changes in the thyroid – hypertrophy, follicular dilation)
Incidental Oral (Short- and Intermediate-Term)	NOAEL= 7 mg/kg/day UF_A = 10x UF_H = 10x UF_{DB}=10x	Residential LOC = 1,000	4 week range-finding dog study LOAEL = 34 mg/kg/day based on thyroid toxicity (decreased levels of thyroid hormones, gross thyroid lesions)

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ETU FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/Scenario	Point of Departure and Uncertainty/ Safety Factors	RfD, PAD, LOC for Risk Assessment	Study and Toxicological Effects
Dermal (Short- and Intermediate-Term)	NOAEL = 5 mg/kg/day DA = 26% UF_A = 10x UF_H = 10x UF_{DB}= 10x	LOC for MOE = 1,000	Developmental Toxicity in the rat (Khera Study, MRID No. 45937601) LOAEL = 10 mg/kg/day based on developmental defects of the brain
Dermal (Long-Term)	NOAEL = 0.18 mg/kg/day DA = 26% UF_A = 10x UF_H = 10x UF_{DB}= 10x	LOC for MOE = 1,000	Chronic Oral Toxicity in the dog LOAEL = 1.99 mg/kg/day based on thyroid toxicity (increased thyroid weight and macroscopic changes in the thyroid – hypertrophy, follicular dilation)
Inhalation (Short- and Intermediate-Term)	Inhalation (or oral) study NOAEL= 5 mg/kg/day UF_A = 10x UF_H = 10x UF_{DB}= 10x Inhalation toxicity is assumed to be equivalent to oral toxicity.	LOC for MOE = 1,000	Developmental Toxicity in the rat (Khera Study, MRID No. 45937601) LOAEL = 10 mg/kg/day based on developmental defects of the brain
Inhalation (Long-Term)	NOAEL = 0.18 mg/kg/day UF_A = 10x UF_H = 10x UF_{DB}= 10x Inhalation toxicity is assumed to be equivalent to oral toxicity.	LOC for MOE = 1,000	Chronic Oral Toxicity in the dog LOAEL = 1.99 mg/kg/day based on thyroid toxicity (increased thyroid weight and macroscopic changes in the thyroid – hypertrophy, follicular dilation)
Cancer (Oral, dermal, inhalation)	$Q1^* = 6.01 \times 10^{-2}$ $(mg/kg/day)^{-1}$ ETU is classified as a probable human carcinogen. Cancer risk is quantitified with a linear low-dose extrapolation approach based on liver tumors in female mice.		

UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL. UF_S = use of a short-term study for long-term risk assessment. UF_{DB} = to account for the absence of data or other data deficiency. FQPA SF = Food Quality Protection Act Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern. DA = Dermal Absorption.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to mancozeb, EPA considered exposure under the petitioned-for tolerances discussed in this document including additional proposed uses that the Agency is not establishing tolerances for at this point (almonds, cabbage, lettuce, broccoli, and pepper) as well as all existing mancozeb tolerances in 40 CFR 180.176. In evaluating dietary exposure to ETU, EPA considered exposure under the petitioned-for tolerances discussed in this document as well as all existing uses of the EBDC group of fungicides (maneb, metiram, mancozeb). EPA assessed dietary exposures from mancozeb and ETU in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

The Dietary Exposure Evaluation Model (DEEM(TM)) analysis evaluated the individual food consumption as reported by respondents in the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII).

a. *Mancozeb.* The following assumptions were made for the acute exposure assessments: The Agency conducted a highly refined, probabilistic acute dietary assessment incorporating maximum percent crop treated information for proposed uses that the Agency is not establishing tolerances at this time (almonds, cabbage, lettuce, broccoli, and pepper) and existing uses, field trial or monitoring data, and processing and cooking factors.

b. *ETU.* The following assumptions were made for the acute exposure assessments: The Agency conducted a highly refined, probabilistic acute dietary assessment incorporating maximum percent crop treated information for new and existing uses, field trial or monitoring data, and processing and cooking factors. It was assumed that commodities would not be treated with more than one EBDC in a season, as there are label restrictions regarding treatment with multiple EBDCs. Percent crop treated was estimated by summing the percent crop treated for the individual EBDCs. For residue values, EPA used either market basket survey data or field trial data. For a few commodities mancozeb - derived ETU from mancozeb field trial data were used for both mancozeb and maneb because maneb field trial data were not available and application rates were sufficiently similar to estimate maneb-derived ETU values.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), which incorporates food consumption data as reported by respondents in the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII).

a. *Mancozeb.* The chronic dietary exposure and risk assessment for mancozeb (non-cancer and cancer) incorporated average values based either on field trial data or monitoring data and average percent crop treated data for proposed uses that the Agency is not

establishing tolerances at this time (almonds, cabbage, lettuce, broccoli, and pepper) and existing uses, as well as processing and cooking factors.

b. *ETU*. Chronic anticipated residues were calculated from field trial or monitoring data for ETU. Averages of the field trial and market basket survey residues were used. EPA also used PCT data.

iii. *Cancer*. EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Cancer risk is quantified using a linear or non-linear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or non-linear approach is used and a cancer RfD is calculated based on an earlier non-cancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized.

Mancozeb degrades and/or metabolizes to ETU which causes thyroid tumors; therefore, EPA has historically attributed mancozeb's carcinogenicity to the formation of ETU, which is classified as a probable human carcinogen . The Agency has used the cancer potency factor (Q1*) of 0.0601 $(mg/kg/day)^{-1}$ for ETU (based on liver tumors in female mice) for risk assessment. Therefore, cancer risk from exposure to mancozeb has been calculated by estimating exposure to mancozeb-derived ETU and using the Q1* for ETU. The same approach has been taken for the other EBDCs. EPA's estimated exposure to mancozeb-derived ETU included ETU residues found in food as well as ETU formed by metabolic conversion on parent mancozeb in the body (conversion rate of 0.075).

EPA relied on the chronic exposure assessment in assessing cancer risk.

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

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

For mancozeb the Agency estimated the PCT for existing uses as follows:

Cantaloupes 5%; pumpkins 5%; sugar beets 5%; tobacco 5%; cucumber 10%; garlic 10%; sweet corn 10%; grapes 15%; squash 15%; asparagus 20%; eggplant 20%; tomatoes 25%; apples 30%; cranberries 30%; watermelons 35%; pears 40%; onions 50%; and potatoes 54%. Beans, green; carrots; cherries; corn (field); cotton; oranges; peaches; peanuts; pecans; prunes, plums; strawberries; walnuts; and wheat all average less than 1%.

For ETU the Agency estimated the PCT for existing uses of mancozeb, maneb and metiram.

a. *Mancozeb*. For mancozeb, the PCT was identical to that listed in this unit.

b. *Maneb*. For maneb, the Agency estimated the PCT for existing uses as follows:

Almonds 10%; apples 1%; dry beans 1%; green beans 5%; broccoli 5%; Brussels sprouts 21%; cabbage 15%; carrots 1%; cauliflower 5%; celery 5%; collards 10%; field corn 1%; eggplant 55%; garlic 25%; grapes 1%; mustard greens 5%; kale 5%; lettuce 65%; onions; 10%; pears 1%; peppers 30%; potatoes 5%; pumpkins 5%; spinach 15%; squash 5%; sugar beets 1%; sweet corn 1%; tomatoes 5%; walnuts 30%; watermelons 5%; wheat 5%.

c. *Metiram*. For metiram, the Agency estimated the PCT for existing uses as follows:

Apples 15%; asparagus 1%; peaches 1%; potatoes 10%; squash 1%.

The PCT estimates for mancozeb and maneb on walnuts reflect usage of maneb on walnuts under an emergency exemption prior to the cancellation of maneb products and establishment of the emergency exemption use on walnuts for mancozeb. Going forward, EPA expects mancozeb use on walnuts to replace maneb. However, for this present action, EPA concludes it is reasonable to use the risk assessment that relied upon the PCT estimates in this unit for walnuts because: EPA does not expect mancozeb use on walnuts to be higher than the prior maneb use; mancozeb residues on walnuts and the consumption level of walnuts are insignificant compared to residue and consumption levels of other mancozeb-treated commodities (e.g., melons and apples); and ETU residues from maneb and macozeb are equivalent.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to

residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which mancozeb may be applied in a particular area.

2. *Dietary exposure from drinking water*—i. *Mancozeb*. The Agency has determined that mancozeb is very short-lived in soil and water, and would not reach water used for human consumption whether from surface water or ground water.

ii. *ETU*. ETU is highly water soluble, and may reach both surface and ground water under some conditions. The ETU surface water Estimated Drinking Water Concentrations (EDWCs) were generated using a combined monitoring/modeling approach. Results of a surface water monitoring study conducted by the ETU Task Force were used to refine the outputs of the Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM-EXAMS) models; the site/scenario modeled was application of an EBDC fungicide on peppers in Florida, and was chosen to produce the highest EDWC acute values. The ground water EDWC was detected in a Florida community water system intake in a targeted ground water monitoring study conducted by the EBDC task force from 1999 to 2003. Both these surface and ground water values represent upper-bound conservative estimates of the total ETU residual concentrations that might be found in surface water and ground water due to the use of the EBDC fungicides. The values are listed in Table 3 of this unit.

TABLE 3.— SURFACE AND GROUND WATER VALUES.

	Acute	Chronic	Cancer
Surface Water EDWC	0.1 to 25.2 ppb	0.10 ppb	0.10 ppb
Ground Water EDWC	0.21 ppb	0.21 ppb	0.21 ppb

Based on the PRZM/EXAMS and monitoring studies, the EDWCs of ETU acute and chronic exposures are estimated to be 25.2 parts per billion (ppb), and 0.1 ppb, respectively for surface water. The EDWC for chronic exposure is estimated to be 0.21 ppb for ground water.

Estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 25.2 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment of ETU, the water concentration of value 0.21 ppb was used to assess the contribution to drinking water. For cancer dietary risk assessment of ETU, the water concentration of value 0.21 ppb was used to assess the contribution to drinking water.

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

i. *Mancozeb*. Mancozeb is currently registered for use on the following residential sites: Home gardens, golf courses, and sod farms (potential exposure to mancozeb is from residues remaining on transplanted turf). The Agency has determined that it is appropriate to aggregate chronic exposure through food with short- and intermediate-term residential exposures to mancozeb.

The two scenarios that were evaluated for mancozeb are the Short/Intermediate-Term Home Garden Aggregate (Adult) which considers residential handler exposures (inhalation) to adult applicators combined with average food exposures and the Short/Intermediate-Term Treated Turf Aggregate (Toddler) which considers residential incidental oral exposures to toddlers combined with average food exposures. The only postapplication scenario for adults in contact with treated turf (golf courses) is via the dermal route of exposure. Since no dermal endpoints were selected for mancozeb, a quantitative risk assessment for this scenario is not required.

ii. *ETU*. ETU non-dietary exposure is expected as a result of the registered uses of mancozeb and the other EBDCs on home gardens, golf courses and sod farms. For ETU, aggregate exposure sources include dietary food, drinking water, home gardening activities and golfing. The Agency has determined that it is appropriate to aggregate chronic exposure through food with short- and intermediate-term residential exposures to mancozeb.

The three scenarios that were evaluated for ETU are the Short/Intermediate-Term Home Garden Aggregate which combines handler exposures (inhalation and dermal) and post application garden exposures (dermal) plus average daily food and drinking water exposure for adults and post application garden exposures (dermal) plus average daily food and drinking water exposure for youth, the Short-Term Treated Turf Aggregate (Toddlers) which combines treated turf post application exposures (incidental oral and dermal) plus average daily food and drinking water exposure for toddlers and the Short/Intermediate-Term Treated Turf Aggregate (Adults "Golfers") which considers short-term residential exposures (dermal) plus average daily food and drinking water exposure for adults such as golfing on treated turf.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

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

As previously mentioned in Unit IV., the risk estimates summarized in this document are those that result only from the use of mancozeb, and ETU derived from mancozeb and the other EBDC chemicals, which are all dithiocarbamates. For the purposes of this action, EPA has concluded that mancozeb does not share a common mechanism of toxicity with other substances. The Agency reached this conclusion after a thorough internal review and external peer review of the data on a potential common mechanism of toxicity.

EPA concluded that the available evidence does not support grouping the dithiocarbamates based on a common toxic effect (neuropathology) occurring by a common mechanism of toxicity (related to metabolism to carbon disulfide). After a thorough internal and external peer review of the existing data bearing on a common mechanism of toxicity, EPA concluded that the available evidence shows that neuropathology can not be linked with carbon disulfide formation. For more information, please see the December 19, 2001 memo, "The Determination of Whether Dithiocarbamate Pesticides Share a Common Mechanism of Toxicity"on the internet at *http://www.epa.gov/oppsrrd1/cumulative/dithiocarb.pdf*.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*—i. *Mancozeb.* In the rat developmental study, developmental effects were observed in the presence of severe maternal effects, including maternal mortality and clinical signs. In the rabbit developmental study, developmental effects (spontaneous abortions) were observed at the same dose (80 mg/kg/day) at which maternal effects included mortality and clinical signs. In the rat reproduction study, no effects were observed in offspring, while thyroid effects and body weight gain decrements occurred in adults.

ii. *ETU.* There was evidence of increased susceptibility of fetuses to ETU in the rat developmental studies because hydrocephaly occurred at doses below that causing maternal toxicity. Acceptable reproductive and rabbit developmental toxicity studies were not available for ETU. As a result, the Agency evaluated the level of concern for the effects observed when considered in the context of all available toxicity data. In addition, the Agency evaluated the database to determine if there were residual uncertainties after establishing toxicity endpoints and traditional uncertainty factors to be used in the ETU risk assessment.

3. *Conclusion*—i. *Mancozeb.* The toxicity database for mancozeb is not complete. The new requirement for an immunotoxicity study has not been met. The absence of an immunotoxicity study does not raise significant uncertainty. In the absence of that study, the available toxicity data for mancozeb have been thoroughly examined for any information which suggests a potential for immunotoxicity. The analysis did not reveal such information and the Agency does not believe that conducting the immunotoxicity study will result in a point of departure (POD) less than the currently selected PODs for risk assessment. A developmental neurotoxicity (DNT) study has been submitted, and EPA has recently completed a review of this study. Neurotoxicity was not observed in the study, and the young animals did not show susceptibility, as compared to the adults, for the slight toxicity that was observed (reduced body weight gain). Since the review of the DNT was completed after the most recent risk assessment was finished, EPA has not had the opportunity to re-evaluate the need for an FQPA factor. For this assessment, EPA has retained the presumptive 10X FQPA safety factor for the protection of children, but will re-visit the need for the safety factor for the next tolerance action.

No additional FQPA Safety Factor is needed beyond the 10X database uncertainty factor applied to account for the data gap for a developmental neurotoxicity study with mancozeb. The reasons for this conclusion are:

a. There is a lack of evidence of pre- and/or postnatal susceptibility resulting from exposure to mancozeb

b. There are no residual uncertainties concerning toxicity, and

c. The exposure assessment, although refined, is unlikely to under-estimate potential exposures.

ii. *ETU.* The toxicity database for ETU is not complete. EPA lacks the following studies: A DNT study; a developmental study in rabbits; a 2-generaltion reproduction study; and a comparative thyroide study in adults and offspring. Given these multiple datagaps for studies that directly assess the risk to the young, EPA does not have reliable data to remove or modify the presumptive 10X FQPA safety factor.

No further safety factor to protect is needed for the following reasons. First, the Agency determined that the degree of concern for the susceptibility seen in ETU developmental studies was low. The reasons for this conclusion are:

a. The teratogenic effects of ETU have been well-characterized in numerous studies in the published literature, as well as in a guideline study submitted by the registrant. In addition, since metabolism studies have shown that approximately 7.5% of mancozeb converts to ETU in mammalian systems, the extensive toxicity database with mancozeb provide extensive information about toxicity of ETU;

b. There is a clear NOAEL for these effects and the dose-response relationship, although steep, is well characterized in the numerous developmental studies in rats.

c. The developmental endpoint with the lowest NOAEL was selected for deriving the acute RfD.

d. The target organ toxicity (thyroid toxicity) was selected for deriving the chronic RfD as well as endpoints for non-dietary exposures (incidental oral, dermal, and inhalation). Since the ETU doses selected for overall risk assessments will address the concern for developmental and thyroid toxicity, there are no residual uncertainties with regard to pre- and/or post-natal toxicity.

Second, the information on ETU gleaned from the extensive mancozeb database also reduces, to a degree, the uncertainty arising from the significant datagaps for ETU.

Third, EPA has concluded that the exposure assessment, although refined, is unlikely to under-estimate potential exposures.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk (Mancozeb).* The mancozeb acute aggregate assessment considers acute exposure to mancozeb per se from food only since residues of mancozeb per se are not expected in drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to mancozeb will occupy 6.9% of the aPAD for females 13-49 years of age, the only population group of concern.

2. *Acute risk (ETU).* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to ETU will occupy 87% of the aPAD for females 13-49 years of age, the only population group of concern.

3. *Chronic risk (Mancozeb).* There are no long-term residential exposure scenarios for mancozeb and there is not likely to be residues of mancozeb in drinking water. Therefore, the long-term or chronic (non-cancer) aggregate risk for mancozeb includes contribution from dietary (food only) exposure alone. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that

chronic exposure to mancozeb from food will utilize 3.3% of the cPAD for children 1-2 years of age, the population group receiving the greatest exposure.

4. *Chronic risk (ETU).* The aggregate chronic risks were calculated using food and water exposure only because golfing and toddler transplanted turf exposure scenarios were considered to occur only on a short term basis. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to ETU from food and water will utilize 58% of the cPAD for children (1 to 2 years old), the population group receiving the greatest exposure.

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

Mancozeb is currently registered for uses that could result in short- and intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food with short- and intermediate-term residential exposures to mancozeb. The two scenarios that were evaluated for mancozeb are the following:

i. *Short/Intermediate-Term Home Garden Aggregate (Adult).* Since there are no dermal endpoints selected for mancozeb, the home garden aggregate risk assessment does not include dermal exposure. Further, since residues of mancozeb are not expected in drinking water, only mancozeb food residues are considered. This assessment combines residential handler exposures (inhalation) to adult applicators plus average food exposures. The exposure value used for food represents the highest exposure found from all adult populations in the mancozeb chronic dietary exposure assessment.

The aggregate short/intermediate-term home garden MOEs for adults are 110,000. Because for mancozeb EPA is concerned only with MOEs that are below 1,000, this MOE does not raise a risk concern.

ii. *Short-Term Treated Turf Aggregate (Toddler).* Since there are no dermal endpoints selected for mancozeb and no likelihood of residues in drinking water, the mancozeb short-term treated turf aggregate risk assessment for toddlers combines residential incidental oral exposures with average food residues. The exposure value used for food represents the highest exposure found from all child populations in the mancozeb chronic dietary exposure assessment.

With a 5–day interval between application and transplant for the sod farm use, which is now on the registered label, the mancozeb short-term aggregate risk (MOE) for toddlers exposed to treated turf is 1,100. Because for mancozeb EPA is concerned only with MOEs that are below 1,000, this MOE does not raise a risk concern.

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

Mancozeb and maneb are currently registered for uses that could result in short- and intermediate-term residential exposure to ETU and the Agency has determined that it is appropriate to aggregate chronic exposure through food with short- and intermediate-term residential exposures to ETU. The three scenarios that were evaluated for ETU are the following:

i. *ETU Short/Intermediate-Term Home Garden Aggregate.* The ETU short/intermediate-term home garden aggregate combines handler inhalation and dermal exposures and post application garden dermal exposures plus average daily food and drinking water for adults exposed to ETU. For youth exposed to ETU, the assessment combines post application garden dermal exposures with average food and drinking water. Only mancozeb is registered for use in home garden settings. Average food and drinking water exposure values reflect the most highly exposed adult or youth subpopulation from the average daily dietary assessment, and consider ETU derived from mancozeb, metiram, and maneb applications. The existing and proposed food uses were included in the food and drinking water exposure estimates.

The ETU short/intermediate-term home garden aggregate MOEs for adults is 13,000 and 17,000 for youth, respectively. Because for ETU EPA is concerned only with MOEs that are below 1,000, this MOE does not raise a risk concern.

ii. *ETU Short-Term Treated Turf Aggregate (Toddlers).* The short-term treated turf aggregate risk assessment combines treated turf post application incidental oral and dermal exposures with average daily food and drinking water exposure for toddlers. Maneb and mancozeb are both registered for applications to sod farms. Average food and drinking water exposure values, including all sources of ETU, reflect the most highly exposed children's subpopulation from the chronic dietary assessment.

The ETU short-term treated turf aggregate MOE for toddlers is 1,100. Because for ETU EPA is concerned only with MOEs that are below 1,000, this MOE does not raise a risk concern.

iii. *ETU Short/Intermediate-Term Treated Turf Aggregate (Adults "Golfers").* The short/intermediate-term treated turf aggregate risk assessment combines dermal exposures for adults golfing on treated turf exposed to ETU with average daily food and drinking water exposures. Only mancozeb uses are relevant for this scenario.

The ETU short-term treated turf aggregate MOE for adults ("golfers") is 6,100. Because for ETU EPA is concerned only with MOEs that are below 1,000, this MOE does not raise a risk concern.

7. *Aggregate cancer risk for U.S. population (Mancozeb and ETU).* As noted earlier in Unit IV.C.iii., mancozeb degrades and/or metabolizes to ETU which causes the same types of thyroid tumors as those seen when animals are dosed with mancozeb; therefore, EPA has historically attributed mancozeb's carcinogenicity to the formation of ETU, which is classified as a probable human carcinogen (B2).

The cancer risks were aggregated using the food and drinking water doses for the general population and the food, water and recreational doses for golfers, home gardeners and athletes. The average daily dose was used for food and water exposures and the lifetime average daily dose was used for the recreational exposures. The aggregate doses were multiplied times the potency factor for ETU, 0.0601 $(mg/kg/day)^{-1}$ to determine the cancer risks. The risk is estimated to be 2.3×10^{-6}.

EPA generally considers cancer risks in the range of 10^{-6} or less to be negligible. The precision which can be assumed for cancer risk estimates is best described by rounding to the nearest integral order of magnitude on the log scale; for example, risks falling between 3×10^{-7} and 3×10^{-6} are expressed as risks in the range of 10^{-6}. Considering the precision with which cancer hazard can be estimated, the conservativeness of low-dose linear extrapolation, and the rounding procedure, cancer risk should generally not be assumed to exceed the benchmark level of concern of the range of 10-6 until the calculated risk exceeds approximately 3×10^{-6}. This is particularly the case where some conservatism is maintained in the exposure assessment. Although the ETU exposure risk assessment is refined, it retains significant conservatism in that, for leafy greens, field trial data and not

market basket data on similar crops is used in estimating exposure. Accordingly, EPA has concluded the cancer risk for all existing mancozeb uses and the uses associated with the tolerances established in this action fall within the range of 1×10^{-6} and are thus negligible.

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

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate methods are available for the enforcement of tolerances for the plant commodities which are the subject of this request. The Pesticide Analytical Method (PAM) Vol. II lists Methods I, II, III, IV, and A for the determination of dithiocarbamate residues in/on plant commodities. The Keppel colorimetric method (Method III) is the preferred method for tolerance enforcement. The Keppel method determines EBDCs as a group by degradation to carbon disulfied (CS_2). The analytical methodology for ETU is based on the original method published by Olney and Yip (JAOAC 54:165-169).

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/ World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are no established or proposed Codex maximum residue limits for residues of mancozeb per se; however, Codex limits for dimethyldithiocarbamates fungicides are grouped under dithiocarbamates. There are Codex MRLs for cucumber (2 ppm), melons (0.5 ppm), pumpkins (0.2 ppm), and summer squash (1 ppm).

C. Response to Comments

As discussed in Unit II. of this document, in the **Federal Register** of September 16, 2009, EPA proposed tolerance actions for mancozeb. EPA did receive comments on the proposed rule; however, many of those comments are not related to the uses proposed in this action. Therefore, EPA is only responding to the comment received that directly addresses issues that pertain to this action. EPA will respond to the additional comments in a future rule.

Comment. The Natural Resources Defense Council (NRDC) commented about the FQPA Safety Factor and the risks to infants of low iodide women. NRDC is concerned about the effects of the EBDC fungicides on women of child-bearing age. All of the EBDC fungicides have shown effects on the thyroid. They have noted that a decrease in thyroxine in pregnant and lactating women, such as has been observed in laboratory animals exposed to the EBDC fungicides, can result in neuro-developmental problems in their children. NRDC has specifically inquired whether the Agency considered the risks to the infants of low-iodide women, and has recommended that the Agency retain the FQPA factor of at least 10X, and possibly more.

Agency Response. EPA agrees with NRDC that protection from adverse effects in the thyroid in women of child-bearing age is important to protect the developing fetus from adverse outcomes. An adverse effect, even in the case of women with iodine deficiency, is not expected for the following reasons.

The mode of action for thyroid toxicity from the EBDCs is understood. ETU, which is the common metabolite of the EBDCs, acts by inhibiting thyroid peroxidase, an enzyme used in the synthesis of thyroid hormone. This enzyme inhibition ceases when exposure to ETU is removed and there is no subsequent change in enzyme function The other thyroid effects (organ weight and microscopic changes), are secondary to this enzyme inhibition as the body attempts to increase production of thyroid hormone by stimulating the thyroid in compensation.

People are protected from the enzyme inhibition because the EBDCs are regulated from the NOAEL for thyroid effects, which is below the dose at which there are thyroid effects in animals. Further, the EBDCs were tested in rats, which are much more sensitive to thyroid perturbations than are humans. Rats are more sensitive than humans because the serum half-life of the thyroid hormone, thyroxine, is much shorter in rats (less than 1 day) than in humans (5-9 days). The 10X interspecies uncertainty factor applied to the EBDCs to account for the possibility that humans are more sensitive than the test animals is therefore more than adequate to protect humans. The 10X intraspecies factor accounts for variability in sensitivity among species and gives protection for women with iodine deficiency. The combination of these factors is therefore expected to be protective for the fetus and pregnant women with regard to possible iodine deficiencies. The Agency has requested a comparative thyroid assay for ETU which will provide additional information on the potential susceptibility of developing organisms, including the developing fetus, to thyroid perturbation, and has retained an FQPA safety factor of 10X to account for the uncertainties associated with these missing data.

D. Revisions to Petitioned-For Tolerances

EPA is not establishing a tolerance for sweetsop because it is the same commodity as sugar apple. The Agency is establishing the tolerance on sugar apple because it is the preferred term for this commodity.

The ginseng tolerance is a reduction from the proposed 2.0 ppm to 1.2 ppm based on conclusions reached in the RED. The 2.0 tolerance recommendation is on a mancozeb per se basis; however EPA is now recommending for a tolerance on a carbon disulfide equivalents basis thus resulting in a tolerance recommendation of 1.2 ppm.

In regards to the cucurbit tolerance, based on available field trial data that showed mancozeb residues as high as 2.1 ppm on cucumber, 2.7 ppm on melons, and 1.75 ppm on summer squash, the Agency determined that individual tolerances should be set at 3.0 ppm, 3.0 ppm, and 2 ppm, respectively, which when converted to carbon disulfide equivalents using a rounded conversion factor of 0.6X is calculated as 1.8 ppm, 1.8 ppm, and 1.2 ppm, respectively. Because the representatives for crop group 9 include cucumber, muskmelon, and summer squash, EPA believes that these tolerances should be combined into a single crop group tolerance and decreased from their current individual

tolerance levels of 4 ppm to 2 ppm. EPA proposed these changes in the **Federal Register** of September 16, 2009, in a document proposing multiple changes to the mancozeb tolerances.

E. Revisions to Tolerance Expression

EPA is also in this action changing the mancozeb tolerance expression as proposed in the **Federal Register** of September 16, 2009. Currently, tolerances for mancozeb are established in 40 CFR 180.176(a) for residues of the fungicide mancozeb, a coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate) and calculated as zinc ethylenebisdithiocarbamate (zineb). Mancozeb is a member of the class of dithiocarbamates, whose decomposition releases CS_2. In order to allow harmonization of U.S. tolerances with Codex Maximum Residue Limits (MRLs), the Agency determined that for the purpose of tolerance enforcement, residues of mancozeb should be calculated as carbon disulfide. Therefore, EPA is revising the introductory text containing the tolerance expression in 40 CFR 180.176(a) and (b).

VI. Conclusion

Therefore, tolerances are established for residues of mancozeb, zinc manganese ethylenebis dithiocarbamate in or on cucurbit vegetable crop group 9 at 2.0 ppm; mango, star apple, canistel, mamey sapote, sapodilla, and white sapote at 15.0 ppm; ginseng at 1.2 ppm; sugar apple, cherimoya, atemoya and custard apple at 3.0 ppm; and a time-limited tolerance in or on walnut at 0.015 ppm.

VII. Statutory and Executive Order Reviews

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

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

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 10, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.176 is amended as follows.

i. In paragraph (a), revise the introductory text;

ii. In paragraph (a), in the table, remove the commodities Cucumber, Melon, and Summer squash and alphabetically add the following commodities;

iii. In paragraph (b), revise the introductory text;

iv. In paragraph (b), in the table, alphabetically add Walnut.

The amendments read as follows:

§ 180.176 Mancozeb; tolerances for residues.

(a) *General.* Tolerances are established for residues of mancozeb (a coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate)), including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those mancozeb residues convertible to and expressed in terms of the degradate carbon disulfide.

Commodity	Parts per million
* * * * *	
Atemoya	3.0
* * * * *	
Canistel	15.0
* * * * *	
Cherimoya	3.0
* * * * *	
Custard apple	3.0

Commodity	Parts per million
* * * * *	
Ginseng	1.2
* * * * *	
Mango	15.0
* * * * *	
Sapodilla	15.0
Sapote, mamey	15.0
Sapote, white	15.0
* * * * *	
Star apple	15.0
Sugar apple	3.0
* * * * *	
Vegetable, cucurbit, group 9	2.0

* * * * *

(b) *Section 18 emergency exemptions.* Time limited tolerances are established in connection with use of the pesticide under a section 18 emergency exemption granted by EPA for residues of mancozeb (a coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate)), including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those mancozeb residues convertible to and expressed in terms of the degradate carbon disulfide. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/revocation date
* * * * *	*	*
Walnut	0.015	12/31/13

* * * * *

[FR Doc. 2010–20453 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0099; FRL–8836–2]

Flubendiamide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes, reassesses, modifies and revokes tolerances for residues of flubendiamide, N^2-[1,1-dimethyl-2-(methylsulfonyl)ethyl-3-iodo-N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl]-1,2-benzenedicarboxamide, in/on multiple food and livestock commodities which are identified, and will be discussed in detail later in this document. Bayer CropScience, LP in c/o Nichino America, Inc. (U.S. subsidiary of Nihon Nohyaku Co., Ltd.) requested these tolerances under the Federal Food, Drug and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0099. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Carmen Rodia, Registration Division (7504P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; telephone number: (703) 306–0327; fax number: (703) 308–0029; e-mail address: *rodia.carmen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. How Can I File an Objection or Hearing Request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0099 in the subject line on the first page of your submission. All objections and requests for a hearing

must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2007–0099, by one of the following methods:

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

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

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

II. Summary of Petitioned-For Tolerances

In the **Federal Register** of March 19, 2010 (75 FR 13277-13280) (FRL–8813–2), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 9F7553, 9E7554 and 9F7555) by Bayer CropScience, LP in c/o Nichino America, Inc. (U.S. subsidiary of Nihon Nohyaku Co., Ltd.), P.O. Box 12014, Research Triangle Park, NC 27709-2014. The petition requested that 40 CFR 180.639 be amended by establishing tolerances for residues of flubendiamide, N^2-[1,1-Dimethyl-2-(methylsulfonyl)ethyl-3-iodo-N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl]-1,2-benzenedicarboxamide, in/on pea and bean, succulent shelled, subgroup 6B at 0.04 parts per million (ppm); pea and bean, dried shelled, except soybean, subgroup 6C at 0.80 ppm; rice, grain at 0.50 ppm (PP 9E7554); soybean, aspirated grain fractions at 91 ppm; soybean, forage at 18 ppm; soybean, hay at 60 ppm; soybean, hulls at 0.70 ppm; soybean, seed at 0.25 ppm; vegetable, foliage of legume, except soybean, subgroup 7A at 35 ppm; vegetable, legume, edible podded, subgroup 6A at 0.50 ppm; and rice, straw as a rotational crop at 0.07 ppm (PP 9F7555). That notice referenced a summary of the petitions prepared by Bayer CropScience, LP in c/o Nichino America, Inc. (U.S. subsidiary of Nihon Nohyaku Co., Ltd.), the registrant, which is available in the docket, *http://www.regulations.gov*. There were no substantive comments received in response to the notice of filing. Based upon review of the data supporting these petitions, EPA has reassessed, modified and revoked some of the existing tolerances for flubendiamide. In addition, EPA has also determined that in primary and rotational crops, the residue of concern for both the tolerance expression and risk assessment is flubendiamide. In livestock, the residue of concern for tolerance expression is flubendiamide. The reason for these changes is explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of flubendiamide in/on pea and bean, dried shelled, except soybean, subgroup 6C; pea and bean, succulent shelled, subgroup 6B; rice, grain; soybean, aspirated grain fractions; soybean, forage; soybean, hay; soybean, hulls; soybean, seed; vegetable, foliage of legume, except soybean, subgroup 7A; vegetable, legume, edible podded, subgroup 6A; and rice, straw as a rotational crop. EPA's assessment of exposures and risks associated with flubendiamide follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Flubendiamide has a low acute toxicity via the oral, dermal and inhalation routes of exposure. Though it is a slight irritant to the eye, flubendiamide is not a skin irritant and it is not a skin sensitizer under the conditions of the guinea pig maximization test.

In the mammalian toxicology database, the primary target organ of flubendiamide exposure is the liver, with secondary effects reported in the thyroid and kidney at equivalent or higher doses; no-observed-adverse-effect-levels (NOAELs) established to protect for liver toxicity are protective of effects seen in the thyroid and kidney. Adverse adrenal effects were also noted in the dog.

Buphthalmia, eye enlargement, opacity, and exophthalmus with hemorrhage appearing only in infancy, were observed in rat offspring in the reproductive and DNT studies. There was no clear dose-response relationship for this effect but ocular toxicity was noted in three rat studies and accompanied by histopathological findings of synechia, hemorrhage, keratitis, iritis, and cataracts. Therefore, bupthalmos is considered an effect of treatment. No evidence of cancer was seen for flubendiamide in cancer bioassays in mice and rats. Flubendiamide was also negative in mutagenicity testing. Accordingly, flubendiamide was classified as "Not Likely to be Carcinogenic to Humans."

More detailed information on the studies received and the nature of the adverse effects caused by flubendiamide as well as the NOAEL and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the document entitled, "Flubendiamide: Human Health Risk Assessment for Proposed Uses on Corn, Cotton, Tobacco, Tree fruit, Tree nuts, Vine crops and Vegetable Crops," dated

April 3, 2008, by going to *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2007–0099. Double-click on the document to view the referenced information on pages 65 to 70 of 105.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level — generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD) — and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for flubendiamide used for human risk assessment can be found in the document entitled, "Flubendiamide: Human Health Risk Assessment for Proposed Uses on Corn, Cotton, Tobacco, Tree fruit, Tree nuts, Vine crops and Vegetable crops," dated April 3, 2008, by going to *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2007–0099. Double-click on the document to view the referenced information on pages 37 to 38 of 105.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to flubendiamide, EPA considered exposure under the petitioned-for tolerances as well as all existing flubendiamide tolerances in 40 CFR 180.639. Acute and chronic dietary (food and drinking water) exposure assessments were conducted using the Dietary Exposure Evaluation Model, Version 2.03 (DEEM-FCID™) which uses food consumption information from the United States Department of Agriculture's (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). EPA assessed dietary exposures from flubendiamide in food for the proposed new uses on legume vegetables, soybeans and a tolerance on imported rice as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. Such effects were identified for flubendiamide. In estimating acute dietary exposure, EPA used DEEM-FCID™ along with food consumption information from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, for the acute assessment, the modeled exposure estimates are based on tolerance level residues, assuming 100% of crops were treated. In addition, default processing factors were assumed for both registered and requested crop uses.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used DEEM-FCID™ along with the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed all currently registered crops contain residues at the average residue levels found in the crop field trials. For the newly proposed crops and for livestock commodities, EPA assumed tolerance level residues. In addition, experimental processing factors were used where available. Finally, EPA assumed 100% of crops were treated.

iii. *Cancer*. As explained above, flubendiamide is considered to be "Not Likely to be Carcinogenic to Humans." As a result, cancer exposure assessment is not needed for flubendiamide.

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

More detailed information on the acute and chronic aggregate dietary assessment for flubendiamide used for human risk assessment can be found in the document entitled, "Flubendiamide: Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for the Proposed Section 3 Registration Action on Legume Vegetables and Soybeans and a Tolerance on Imported Rice," dated March 31, 2010, by going to *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2007–0099. Double-click on the document to view the referenced information on pages 10 to 11 of 26.

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

Flubendiamide is persistent and potentially mobile in terrestrial and aquatic environments. These fate properties suggest that it has a potential to move into surface and ground water. The Agency has completed a drinking water assessment for flubendiamide using screening level water exposure models that were based on the proposed new uses on legume vegetables, rice grain and Christmas trees. Based on the modeling analysis performed for the proposed new uses, the estimated drinking water concentrations (EDWCs) are less than the reported values previously assessed for the existing uses. For the 1 in 10 year peak, the highest Tier 2 Pesticide Root Zone Model /Exposure Analysis Modeling System (PRZM/EXAMS) EDWC for flubendiamide was 12.93 µg/L (approx.

13 µg/L), based on application to Illinois corn. For the 1 in 10 year annual average, the highest PRZM/EXAMS EDWC was 11.95 µg/L (approx. 12 µg/L), also based on application to Illinois corn.

A summary of the dietary exposure from drinking water for flubendiamide used for human risk assessment can be found in the documents entitled, "Flubendiamide: Human Health Risk Assessment for Proposed Uses on Legume Vegetables, Soybeans and Christmas Trees, and to Establish a Tolerance on Imported Rice Grain," dated April 30, 2010, "Amendment: Flubendiamide: Human Health Risk Assessment for Proposed Uses on Legume Vegetables, Soybeans and Christmas Trees, and to Establish a Tolerance on Imported Rice Grain," dated June 28, 2010, and "Flubendiamide: Bridging Residue Study Conducted with an Adjuvant in Support of Proposed Uses on Soybeans and Legumes," dated July 13, 2010, by going to *http://www.regulations.gov*. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2007–0099. Double-click on the document to view the referenced information on pages 25 to 26 of 56.

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

Flubendiamide is not registered for any specific use patterns that would result in residential exposure. That is, no residential uses are being requested for flubendiamide at this time; therefore, no residential risk assessment has been conducted.

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

EPA has not found flubendiamide to share a common mechanism of toxicity with any other substances, and flubendiamide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action; therefore, EPA has assumed that flubendiamide does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

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

2. *Pre-natal and post-natal sensitivity*. While both the rat and rabbit developmental studies did not identify teratogenic effects and showed no evidence of increased pre-natal susceptibility, adverse eye effects (eye enlargement) were noted in post-natal rat pups older than 14 days in multiple studies (the 2–generation reproduction and 1–generation supplemental studies). Additionally, the developmental neurotoxicity (DNT) study reported eye effects appearing in some offspring between lactation days 14 and 42, even though exposure stopped at lactation day 21, indicating a possible delay (a latent response) from the time of last exposure to onset of bupthalmos. These eye effects did not occur in adult rats. Since the iris and chamber angle are differentiating and specializing into definite structures during post-natal days 5 to 20, neonatal rats appear to have an increased susceptibility to flubendiamide exposure as compared to adults. The DNT study also reported that pre-mating exposures are not required to elicit the eye effect in pups.

In addition to the reported eye effects in the DNT study, there was also a balanopreputial seperation (separation of the prepuce (foreskin) from the glans penis (*balanus*)) delay. While this effect is generally considered adverse *per se*, it is not assumed to be a developmental effect from *in utero* exposure. Here, delayed balanopreputial separation is considered secondary to reduced post-natal pup body weight as a result of post-natal exposure. Futhermore, it was resolved within the appropriate age range of puberty and no effects on reproductive function were observed in the multigeneration study in rats. Delayed balanopreputial separation was seen only at doses causing maternal toxicity and is not more severe than the maternal effects of hepatotoxicity seen at the common pup/maternal LOAEL of the DNT study. Accordingly, the delayed balanopreputial separation seen in the DNT study does not cause concern for increased sensitivity to the young for flubendiamide.

Human microsomes have been shown to be capable of approximately 4 times higher hydroxylation rates of flubendiamide as compared to female mouse microsomes and may be able to efficiently metabolize and excrete flubendiamide, preventing accumulation of the parent compound. It remains unclear whether the ability to metabolize and clear the parent compound is the only requirement to avoid ocular toxicity. Due to the potential concern for increased susceptibility of the human neonate compared to adults, this perinatal ocular effect is considered in the human health risk assessment for flubendiamide.

3. *Conclusion*. EPA evaluated the quality of the toxicity and exposure data and, based on these data, has determined that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicology database for flubendiamide is complete with the exception of a subchronic neurotoxicity study which is now a new data requirement under 40 CFR part 158; however, the existing data are sufficient for endpoint selection for exposure/risk assessment scenarios, and for evaluation of the requirements under the FQPA. Flubendiamide is not a neurotoxic chemical based on neurotoxicity assessments conducted acutely, developmentally and incorporated within the chronic rat study. In several short-term studies in rats (subacute and subchronic feeding, plaque-forming cell assay, one-generation pilot, developmental toxicity) no neurobehavioral signs were observed at doses up to and exceeding the limit dose; therefore, an additional database uncertainty factor is not needed to account for potential neurotoxicity.

ii. Although susceptibility was identified in the toxicological database (eye effects), the selected regulatory PODs (which are based on clear NOAELs) are protective of these effects; therefore, the human health risk assessment is protective.

iii. There are no treatment-related neurotoxic findings in the acute neurotoxicity and DNT studies in rats; although eye effects were observed in the DNT study. As noted above, the PODs employed in the risk assessment are protective of this effect.

iv. There are no residual uncertainties identified in the exposure databases and the exposure assessment is protective. The acute dietary food exposure assessment utilizes tolerance-level residues, the chronic dietary food exposure assessment utilizes average residue levels found in the crop field trials/livestock commodities and both assume 100% of crops with requested uses of flubendiamide are treated. The drinking water assessment generated EDWCs using models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations. The highest relevant EDWCs were used in the dietary (food and drinking water) exposure assessment. By using these screening-level exposure assessments in the acute and chronic dietary (food and drinking water) assessments, risk is not underestimated for flubendiamide.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate- and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

For this action, there is potential exposure to flubendiamide from food and drinking water, but not from residential use sites (as there are no proposed or existing residential uses for flubendiamide). Since hazard was identified via the oral route over both the acute and chronic duration, the aggregate risk assessment considers exposures from food and drinking water consumed over the acute and chronic durations.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to flubendiamide will occupy less than 7% of the aPAD for the mostly highly exposed population subgroup, children aged 1–2 years old.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to flubendiamide from food and water will utilize 40% of the cPAD for the mostly highly exposed population subgroup, children aged 1–2 years old. There are no proposed or existing residential uses for flubendiamide.

3. *Aggregate cancer risk for U.S. population*. Based on the evidence discussed above, flubendiamide has been classified as "Not Likely to be Carcinogenic to Humans" and is not expected to pose a cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (LC/MS/MS, Methods 00816/M002 and 00912) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, section 408(b)(4) of FFDCA requires that EPA explain the reasons for departing from the Codex level.

There are currently no established Codex, Canadian or Mexican MRLs for residues of flubendiamide in/on various food or livestock commodities.

C. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting PP 9F7553, 9E7554 and 9F7555, EPA has determined that in primary and rotational crops, the residue of concern for both the tolerance expression and risk assessment is flubendiamide. In livestock, the residue of concern for tolerance expression is flubendiamide; the residues of concern in livestock for risk assessment are flubendiamide and metabolite A14. EPA is creating a separate subsection in the flubendiamide tolerance section (paragraph (a)(2)) for the new tolerances and animal tolerances affected by the new tolerances that reflects this determination on the appropriate tolerance expression. The new subsection makes clear that, as provided by section 408 of FFDCA, the tolerance covers flubendiamide metabolites and degradates.

The Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data was utilized for determining appropriate tolerance levels for many RACs which showed quantifiable residues in or on samples that were treated according to the proposed use patterns. Many of the assessed RAC tolerances are consistent with the levels proposed by the petitioner.

EPA generally establishes a generic tolerance for "aspirated grain fractions" based on uses of a pesticide on corn, wheat, sorghum and soybean. If the pesticide is used on several crops, the RAC with the highest residues in aspirated grain fractions will be used to establish the tolerance. Residue data for the aspirated grain fractions of field corn were reviewed in PP 6F7065, which led to the establishment of the current 5.0 ppm tolerance for aspirated grain fractions. Based on the registered use on field corn, and the proposed use on soybeans, EPA has determined that the established tolerance for aspirated grain fractions be revised from 5.0 ppm to 103 ppm.

As part of this regulation, permanent tolerances for residues of flubendiamide in or on soybean forage (18 ppm) and soybean hay (60 ppm) resulting from direct application to the primary crop are established. These tolerances supersede the currently listed tolerances for indirect or inadvertent residues of flubendiamide in/on soybean forage (0.02 ppm) and soybean hay (0.04 ppm), and therefore the indirect/inadvertent residue tolerances are being revoked from 40 CFR 180.639(d).

The established tolerances for meat, milk, poultry and eggs were also reassessed in light of the recalculated beef and dairy cattle, swine and poultry dietary burdens and following consideration of the newly-proposed uses and reevaluation of previously submitted animal feeding studies. The Agency concludes that the established

tolerances for residues of flubendiamide for milk, milk fat, meat byproducts (previously listed as liver and kidney separately), meat and fat of cattle, goat, horse and sheep should be increased to 0.15 ppm, 0.80 ppm, 0.60 ppm, 0.07 ppm and 0.60 ppm, respectively. For swine, EPA concludes that tolerances need to be added on meat byproducts at 0.01 ppm and on fat at 0.01 ppm. For poultry, EPA concludes that the established tolerance for meat (0.01 ppm) remains adequate; however, tolerances for egg, fat and liver need to be raised to 0.03 ppm, 0.15 ppm and 0.03 ppm, respectively.

The submitted Section F of the rice petition does not include any tolerance proposal on rice straw (PP 9F7555). Rice straw is not a significant livestock feedstuff as per Table 1 of Guideline 860.1000; therefore, a rotational crop tolerance on rice straw is not needed and will not be approved as part of this regulation.

V. Conclusion

Therefore, new tolerances are being established for residues of flubendiamide, N^2-[1,1-Dimethyl-2-(methylsulfonyl)ethyl-3-iodo-N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl]-1,2-benzenedicarboxamide, in/on grain, aspirated grain fractions at 103 ppm; pea and bean, dried shelled, except soybean, subgroup 6C at 0.60 ppm; pea and bean, succulent shelled, subgroup 6B at 0.05 ppm; rice, grain at 0.50 ppm; soybean, forage at 18 ppm; soybean, hay at 60 ppm; soybean, hulls at 0.80 ppm; soybean, seed at 0.25 ppm; vegetable, foliage of legume, except soybean, subgroup 7A at 35 ppm; and vegetable, legume, edible podded, subgroup 6A at 0.50 ppm.

The established tolerances for residues of flubendiamide for milk, milk fat, meat byproducts (previously listed as liver and kidney separately), meat and fat of cattle, goat, horse and sheep are being increased to 0.15 ppm, 0.80 ppm, 0.60 ppm, 0.07 ppm and 0.60 ppm, respectively. Additionally, the established tolerances for egg, fat and liver are being increased to 0.03 ppm, 0.15 ppm and 0.03 ppm, respectively.

The established tolerances on liver (0.30 ppm) and kidney (0.30 ppm) for cattle, goat, horse and sheep, listed in 40 CFR 180.639(a), are being superseded by renamed tolerances for meat byproducts for cattle, goat, horse and sheep (0.60 ppm) in the newly created subsection, 40 CFR 180.639(a)(2). The established tolerances for indirect or inadvertent residues of flubendiamide in/on soybean, forage (0.02 ppm) and soybean, hay (0.04 ppm) are being revoked from 40 CFR 180.639(d), and are being superseded by the new soybean and legume vegetable tolerances listed in 40 CFR 180.639(a)(2).

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 10, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.639 is revised to read as follows:

§180.639 Flubendiamide; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide flubendiamide *per se*, N^2-[1,1-Dimethyl-2-(methylsulfonyl)ethyl-3-iodo-N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl]-1,2-benzenedicarboxamide, in or on the following commodities:

Commodity	Parts per million
Almond, hulls	9.0 ppm
Apple, wet pomace	2.0 ppm
Brassica, head and stem, subgroup 5A	0.60 ppm
Brassica, leafy greens, subgroup 5B	5.0 ppm
Corn, field, forage	8.0 ppm
Corn, field, grain	0.02 ppm
Corn, field, stover	0.15 ppm
Corn, sweet, forage	9.0 ppm
Corn, sweet, kernel plus cob with husks removed	0.01 ppm
Corn, sweet, stover	0.25 ppm
Cotton gin byproducts	0.60 ppm
Cotton, undelinted seed	0.90 ppm
Fruit, pome, group 11	0.70 ppm
Fruit, stone, group 12	1.6 ppm
Grape	1.4 ppm
Nut, tree, group 14	0.06 ppm
Okra	0.30 ppm
Vegetable, cucurbit, group 9	0.20 ppm
Vegetable, fruiting, group 8	0.60 ppm
Vegetable, leafy, except Brassica, group 4	11 ppm

(2) Tolerances are established for residues of flubendiamide, including its metabolites and degradates, in or on the commodities listed in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only flubendiamide, N^2-[1,1-dimethyl-2-(methylsulfonyl)ethyl-3-iodo-N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl]-1,2-benzenedicarboxamide, in or on the following commodities:

Commodity	Parts per million
Cattle, fat	0.60 ppm
Cattle, meat byproducts	0.60 ppm
Cattle, meat	0.07 ppm
Eggs	0.03 ppm
Goat, fat	0.60 ppm
Goat, meat byproducts	0.60 ppm
Goat, meat	0.07 ppm
Grain, aspirated grain fractions	103 ppm
Horse, fat	0.60 ppm
Horse, meat byproducts	0.60 ppm
Horse, meat	0.07 ppm
Milk	0.15 ppm

Commodity	Parts per million
Milk, fat	0.80 ppm
Pea and bean, dried shelled, except soybean, subgroup 6C	0.60 ppm
Pea and bean, succulent shelled, subgroup 6B	0.05 ppm
Poultry, fat	0.15 ppm
Poultry, liver	0.03 ppm
Poultry, meat	0.01 ppm
Rice, grain[1]	0.50 ppm
Sheep, fat	0.60 ppm
Sheep, meat byproducts	0.60 ppm
Sheep, meat	0.07 ppm
Soybean, forage	18 ppm
Soybean, hay	60 ppm
Soybean, hulls	0.80 ppm
Soybean, seed	0.25 ppm
Vegetable, foliage of legume, except soybean, subgroup 7A	35 ppm
Vegetable, legume, edible podded, subgroup 6A	0.50 ppm

[1]There are no U.S. registrations for rice, grain.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* Tolerances are established for residues of the insecticide flubendiamide *per se*, N^2-[1,1-Dimethyl-2-(methylsulfonyl)ethyl-3-iodo-N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl]-1,2-benzenedicarboxamide, in or on the following raw agricultural commodities when present therein as a result of the application of flubendiamide to the growing crops listed in paragraphs (a)(1) and (a)(2) of this section:

Commodity	Parts per million
Alfalfa, forage	0.15 ppm
Alfalfa, hay	0.04 ppm
Barley, hay	0.04 ppm
Barley, straw	0.07 ppm
Buckwheat	0.07 ppm
Clover, forage	0.15 ppm
Clover, hay	0.04 ppm
Grass, forage	0.15 ppm
Grass, hay	0.04 ppm
Millet, pearl, forage	0.15 ppm
Millet, pearl, hay	0.04 ppm
Millet, proso, forage	0.15 ppm
Millet, proso, hay	0.04 ppm
Millet, proso, straw	0.07 ppm

Commodity	Parts per million
Oats, forage	0.15 ppm
Oats, hay	0.04 ppm
Oats, straw	0.07 ppm
Rye, forage	0.15 ppm
Rye, straw	0.07 ppm
Sorghum, grain, forage	0.03 ppm
Sorghum, grain, stover	0.06 ppm
Teosinte, forage	0.15 ppm
Teosinte, hay	0.04 ppm
Teosinte, straw	0.07 ppm
Triticale, forage	0.15 ppm
Triticale, hay	0.04 ppm
Triticale, straw	0.07 ppm
Wheat, forage	0.15 ppm
Wheat, hay	0.03 ppm
Wheat, straw	0.03 ppm

[FR Doc. 2010–20443 Filed 8–17–10; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0048; FRL–8839–4]

Prohydrojasmon, propyl-3-oxo-2-pentylcyclo-pentylacetate; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the biochemical pesticide prohydrojasmon (PDJ), propyl-3-oxo-2-pentylcyclo-pentylacetate, on red apple varieties when applied/used as a plant growth-regulator in accordance with the terms of Experimental Use Permit (EUP) No. 62097-EUP-R and when used in accordance with good agricultural practices. Fine Agrochemicals, Ltd., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of prohydrojasmon (PDJ), propyl-3-oxo-2-pentylcyclo-pentylacetate. The temporary tolerance exemption expires on August 1, 2012.

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0048. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Gina Casciano, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 605–0513; e-mail address: *casciano.gina@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American

Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. How Can I File an Objection or Hearing Request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections.You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0048 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket . Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0048, by one of the following methods:

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

II. Background and Statutory Findings

In the **Federal Register** of April 7, 2010 (75 FR 17715) (FRL–8810–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 9G7656) by Fine Agrochemicals, Ltd., c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA, 22192. The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of prohydrojasmon, propyl-3-oxo-2-pentylcyclo-pentylacetate, (PDJ), for its use in accordance with the terms of Experimental Use Permit (EUP) No. 62097-EUP-R. This notice referenced a summary of the petition prepared by the petitioner Fine Agrochemicals, Ltd., c/o SciReg, Inc., which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe " to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...." Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

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

PDJ is a synthetically made plant growth regulator which is both structurally similar and functionally identical to jasmonic acid (JA), a naturally occurring plant regulator present in all vascular (higher) plants. The jasomates, of which JA is a member, is a group of plant hormones involved in multiple stages of plant development and defense, including the ability to stimulate fruit ripening (Creelman and Mullet, et al., 1995). The highest levels of naturally occurring JA are found in actively growing plant tissues such as leaves, flowers, and developing fruit (Creelman and Mullet, et al., 1995; Mason et al., 1992), thus JA has always been a natural component of diets containing plant materials. To date, there have been no reported toxic effects associated with the consumption of JA in fruits and vegetables.

PDJ, a synthetic version of JA, is expected to behave in the same manner and have the same low toxicity profile as JA since it is structurally similar and functionally identical to naturally occurring JA. Studies submitted by the applicant and reviewed by EPA indicate that PDJ is not acutely toxic. No toxic endpoints were established, and no significant toxicological effects were observed in any of the acute toxicity studies. In addition, studies submitted indicate that PDJ is not genotoxic, has no subchronic toxic effects, and is not a developmental toxicant. Summaries of the toxicological data submitted in support of this temporary exemption from the requirement of a tolerance follow.

A. Acute Toxicity

Acute toxicity studies on the technical grade active ingredient (TGAI) for PDJ, containing 97.98% PDJ, confirm

a low toxicity profile. The acute toxicity data show virtual nontoxicity for all routes of exposure and it can be concluded that any dietary risks associated with this plant regulator would be negligible.

1. The acute oral median lethal dose (LD_{50}) in rats was greater than 5,000 milligrams per kilogram (mg/kg) bodyweight. There were no observed toxicological effects on the test subjects in the acute oral study submitted (MRID No. 47927825). PDJ is classified as Toxicity Category IV for acute oral toxicity.

2. The acute dermal LD_{50} in rats was greater than 2,000 mg/kg bodyweight (MRID 47927826). PDJ is classified as Toxicity Category III for acute dermal toxicity.

3. The acute inhalation median lethal concentration (LC_{50}) was greater than 2.8 milligrams per liter (mg/L) in rats and showed no significant inhalation toxicity (MRID 47927827). PDJ is classified as Toxicity Category IV for acute inhalation toxicity.

4. A primary eye irritation study on rabbits indicates that PDJ is minimally irritating to the eye (MRID 47927828). PDJ is classified as Toxicity Category IV for primary eye irritation.

5. A skin irritation study on rabbits indicates that PDJ is not irritating to the skin (MRID 47927829). PDJ is classified as Toxicity Category IV for primary skin irritation.

6. Data indicate that PDJ is not a dermal sensitizer (MRID 47927830).

B. Mutagenicity

Two mutagenicity studies, using the TGAI of PDJ (97.98% PDJ) as the test substance, were performed. These studies are sufficient to confirm that there are no expected dietary or non-occupational risks of mutagenicity with regard to new food uses.

1. A Bacterial Reverse Gene Mutation Test (MRID No. 47927833) investigating doses of test substance up to those that were cytotoxic, both with and without metabolic S9 activation, found no incidences of a 2-fold or greater increase in the number of revertants compared to the corresponding solvent control. Therefore, PDJ is considered to be non-mutagenic under the conditions of this assay.

2. An *in vitro* Mammalian Cell Chromosome Aberration Test (MRID No. 47927834) tested PDJ genotoxicity on Chinese hamster lung cells (CHL/IU) up to the cytotoxic dose level (80 micrograms per milliliter [µg/mL], based on reduced mitotic activity) without S9 activation, and up to the limit concentration of 5,000 µg/mL with S9 activation. None of the test substance concentrations induced a significant increase in the incidence of cells with chromosomal abnormalities, either in the absence or presence of S9 activation. In both experiments, the fraction of cells with chromosomal aberrations was below 5%, indicating a negative response of the test substance. There was also no indication of a dose-response effect either with or without metabolic activation. All of the negative, solvent, and positive controls gave appropriate responses. Therefore, under the conditions of this assay, PDJ is considered to be non-mutagenic and does not cause chromosome aberrations.

C. Subchronic Toxicity

In a subchronic toxicity study using the TGAI of PDJ (97.98% PDJ) as the test substance, no clinically or toxicologically significant effects were found in any treatment group (MRID 47927831). Therefore, the no observed adverse effect level (NOAEL) for PDJ has been established as the highest test substance dose, 10,000 parts per million (ppm) (equivalent to 566 mg/kg bw/day for male test animals and 587 mg/kg bw/day for female test animals). A lowest observed adverse effect level (LOAEL) was not established, suggesting that the test animals could have tolerated a higher dose. In sum, the data submitted to the Agency indicate that PDJ has no subchronic toxicological effect.

D. Developmental Toxicity

In a developmental toxicity study, using the TGAI of PDJ (97.98% PDJ) as the test substance (MRID 47927832), there were no treatment-related effects found at necropsy in maternal animals nor were there effects on copra lutei, number of implantations, sex ratio, fetal body weight, or preimplantation embryonic mortality. The Agency does not consider the transient decrease in body weight or food intake as adverse and establishes the NOAEL for this study as 500 mg/kg bw/day. A LOAEL was not identified for maternal effects, suggesting that the test animals could have tolerated a higher dose. No treatment-related developmental effects were found on external examination of the fetuses. Visceral examination showed a slight increase in the incidence of thymic remnants; however, the increase was within the range of the performing laboratories historical control data. Therefore, the Agency does not consider this a treatment-related effect. There was also a slight increase in the incidence of a 14th rib, a common variation in this strain of rat and is therefore not considered an adverse effect. It was not accompanied by an increased incidence of abnormal embryos, either on external, skeletal, or visceral examination, and did not appear at a higher than normal rate. Based on the study results, the developmental effects NOAEL for the study is the highest dose tested 500 mg/kg bw/day. A LOAEL was not identified for developmental effects, suggesting that the test animals could have tolerated a higher dose. In sum, the data submitted to the Agency indicate that PDJ is not a developmental toxicant.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Dietary exposure to the residues of PDJ is expected to be insignificant, even in the event of exposure. Based on subchronic toxicity data submitted in support of this petition, the Agency has calculated the possibility of dietary exposure and concludes that in a worst case scenario, such as no degradation, PDJ residues consumed by a 70 kg person are four orders of magnitude below the NOAEL that was calculated for this compound (EPA, 2010). Moreover, based on the fate and distribution data (absorption/desorption, hydrolysis, photodegredation in water, and aerobic soil metabolism) submitted by the applicant and reviewed by EPA, PDJ, when applied to plant material such as fruit and foliage, is expected to degrade rapidly, with calculated environmental concentrations ranging from 0.77 to 0.06 ppm on the day of application and declining to 0.0 by two days post application. In addition, these studies indicate that PDJ is relatively unstable in the environment with an aerobic soil half-life of 1.6 – 2.3 hours, and upon consumption breaks down under gastric condition with a half-life of 0.8 days.

1. *Food.* PDJ is structurally similar to the naturally occurring plant growth regulator JA. JA is naturally present in fruits and vegetables at various levels, generally not exceeding 10uM (2ppm), and has always been a component of any diet containing plant materials (Creelman and Mullet, 1995; Mason et al., 1992). Dietary exposure to residues of PDJ via exposure to treated fruit or foliage (e.g. apples) is not expected to exist above background levels of

naturally occurring JA. The maximum application rate of PDJ will be 0.009 pounds of active ingredient per acre (lbs ai/A) or 200 parts per million active ingredient per acre (ppm ai/A). Using the Terrestrial Exposure Model (T-REX; USEPA), the Agency calculated that, in a theoretical application at the maximum rate, residue levels of PDJ on grasses, broadleaf foliage, fruits, pods, and seeds will range from 0.77 to 0.06 ppm on the day of application and decline to 0.0 ppm by 2 days post application (EPA, 2010). Given PDJ's expected short-lived presence on vegetation, no significant pesticidal residues are anticipated for harvested foods. Furthermore, PDJ is relatively unstable in the environment with an aerobic soil half-life of 1.6 - 2.3 hours, and upon consumption breaks down under gastric condition with a half-life of 0.8 days.

2. *Drinking water exposure*. Exposure of humans to PDJ in drinking water is unlikely since products are labeled for application directly to terrestrial plants and because data demonstrate a soil half-life for this chemical from 1.6-2.3 hours, as well as rapid degradation in water (EPA, 2010). Specifically, PDJ is not to be applied directly to water or to areas where surface water is present. In addition, the Agency estimated environmental concentrations to an aquatic site from PDJ runoff (spray to apple trees) using the GENeric Estimated Environmental Concentration model (GENEEC; EPA, 2001). The expected concentrations in surface water are well below (6 to 7 orders of magnitude) the maximum doses used in laboratory testing, where no toxic effects were seen (e.g. Acute Oral Toxicity LD_{50} > 5,000 mg/kg; Developmental Toxicity NOAEL > 500 mg/kg).

B. Other Non-Occupational Exposure

Non-occupational exposure is not expected because PDJ is not approved for residential uses. The active ingredient is applied directly to commodities and degrades rapidly.

1. *Dermal exposure*. Non-occupational dermal exposures to PDJ are expected to be negligible because of its directed agricultural use as a plant growth regulator applied to red apple varieties pre-harvest. Any dermal exposure associated with this experimental use permit is expected to be occupational in nature.

2. *Inhalation exposure*. Non-occupational inhalation exposures are not expected to result from the agricultural uses of PDJ. Any inhalation exposure associated with this experimental use permit is expected to be occupational in nature.

V. Cumulative Effects from Substances with a Common Mechanism of Toxicity

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

EPA has not found PDJ to share a common mechanism of toxicity with any other substances, and PDJ does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that PDJ does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessments either directly or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk.

The acute, subchronic, and developmental toxicity data discussed in Unit III.B. indicate that PDJ has negligible toxicity. In addition, PDJ is structurally similar to jasmonic acid, which is ubiquitous in nature and present in all fruits and vegetables and for which there is no reported history of toxicological incident. Furthermore, based on subchronic toxicity data submitted in support of this petition, the Agency has calculated the possibility of dietary exposure and concludes that in a worst case scenario, such as no degradation, the PDJ residues consumed by a 70 kg person are four orders of magnitude below the NOAEL that was calculated for this compound (EPA, 2010). Therefore, EPA concludes that there is a reasonable certainty that no harm will result to the United States population, including infants and children, from aggregate exposure to the residues of PDJ. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data and information available on PDJ do not demonstrate toxic potential to mammals. Thus, there are no threshold effects of concern and, as a result, an additional margin of safety is not necessary.

VII. Other Considerations

A. Analytical Enforcement Methodology

Through this action, the Agency proposes a temporary exemption from the requirement of a tolerance of PDJ when used on red apple varieties without any numerical limitations for residues. The Agency has determined that residues resulting from PDJ use as a plant growth regulator are unlikely, and that there are no significant toxicity concerns even in the event that residues of this active ingredient are present. As a result, the Agency has concluded that an analytical method is not required for enforcement purposes for PDJ.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for PDJ.

VIII. Conclusion

Therefore, a temporary exemption is established for residues of PDJ when used on red apple varieties pre-harvest and in accordance with good agricultural practices.

IX. References

1. Creelman, R.A. and J.E. Mullet (1995) Jasmonic acid distribution and action in plants: Regulation during development and response to biotic and abiotic stress. *Proceedings of the National Academies of Science*, 92: 4114-4119.

2. EPA (2010) Environmental Protection Agency (EPA) Risk Assessment: Application for Experimental-Use Permit and Temporary Tolerance Exemption for FAL 1800 (Prohydrojasmon). May 18, 2010.

3. Mason, H.S., DeWald, D.B., Creelman, R.A., Mullet J.E. (1992) Coregulation of Soybean and Vegetative Storage Protein Gene Expression by Methyl Jasmonate and Soluble Sugars. *Plant Physiology*, 98: 859-867.

X. Statutory and Executive Order Reviews

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

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

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

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

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 6, 2010.

Steven Bradbury,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.1299 is added to subpart D to read as follows:

§ 180.1299 Prohydrojasmon; temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of prohydrojasmon, propyl-3-oxo-2-pentylcyclo-pentylacetate, when used on red apples varieties pre-harvest and when used in accordance with good agricultural practices and will expire on August 1, 2012.

[FR Doc. 2010–20177 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0272; FRL–8837–5]

2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, number average molecular weight (in AMU) 4000; when used as an inert ingredient in a pesticide chemical formulation 40 CFR 180.960. Clariant Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated on food or feed commodities.

DATES: This regulation is effective August 18, 2010. Objections and requests for hearings must be received on or before October 18, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0272. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Elizabeth Fertich, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8560; e-mail address: *fertich.elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0272 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 18, 2010. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0272, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of June 8, 2010, (75 FR 32463) (FRL–8827–5), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 0E7702) filed by Clariant Corporation, P.O. Box 866, 625 East Catawba Avenue, Mount Holly, NC 28120. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, number average molecular weight (in AMU) 4,000; CAS No. 950207–35–9. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments in response to this notice.

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

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under

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

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

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

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

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

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

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

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

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

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

Thus, 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated is 4,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

EPA has not found 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, to share a common mechanism of toxicity with any other substances, and 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

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

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless

EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated.

VIII. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, polyethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, number average molecular weight (in AMU) 4,000 from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

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

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

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

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

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 9, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

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

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

* * * * *

Polymer	CAS No.
* * * * * * *	
[2-propenoic acid, 2-methyl-, C12-16-alkyl esters, telomers with 1-dodecanethiol, poly ethylene-polypropylene glycol ether with propylene glycol monomethacrylate (1:1), and styrene 2,2'-(1,2-diazenediyl)bis[2-methylbutanenitrile]-initiated, minimum number average molecular weight (in amu), 4,000	950207–35–9
* * * * * * *	

[FR Doc. 2010–20297 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[EPA–R08–RCRA–2009–0621; FRL–9149–7]

Final Determination To Approve Alternative Final Cover Request for the Lake County, Montana Landfill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency Region VIII is making a final determination to approve an alternative final cover for the Lake County landfill, a municipal solid waste landfill (MSWLF) owned and operated by Lake County, Montana on the Confederated Salish and Kootenai Tribes' Flathead Reservation in Montana. EPA is promulgating a site-specific rule proposed on February 10, 2010, that approves an alternative final cover for the Lake County, Montana landfill.

DATES: This final rule is effective on August 18, 2010. The incorporation by reference of certain publications listed in this rule has been approved by the Director of the Federal Register on August 18, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–RCRA–2009–0621. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (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 form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency Region VIII, Montana Office, 10 West 15th Street, Suite 3200, Helena, Montana. The Environmental Protection Agency Region VIII Montana Office is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays, and is located in a secure building. To review docket materials at this location, it is recommended that the public make an appointment by calling (406) 457–5000 during normal business hours.

FOR FURTHER INFORMATION CONTACT: Susanna Trujillo, Solid and Hazardous Waste Program, 8P–HW, Environmental Protection Agency, 1595 Wynkoop St., Denver, CO 80202; telephone number: (303) 312–7008; fax number: (303) 312–6341; e-mail address: *trujillo.susanna@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What did EPA propose?

After completing a review of Lake County's final site-specific flexibility application request, dated July 11, 2007, and March 17, 2008, and the amendments to that application, dated January 22, 2009, EPA proposed to approve in the **Federal Register** on February 10, 2010, (75 FR 6597) Lake County's site-specific flexibility request to install an alternative final cover that varies from the final closure requirements of 40 Code of Federal Regulations (CFR) 258.60(a), but meets the criteria at 40 CFR 258.60(b). This approval would apply to the 15.4 acres of the landfill that have not been previously closed.

B. What is a site-specific flexibility request?

Under Sections 1008, 2002, 4004, and 4010 of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA established revised minimum Federal criteria for MSWLFs, including landfill location restrictions, operating standards, design standards and requirements for ground water monitoring, corrective action, closure and post-closure care, and financial assurance. Under RCRA Section 4005(c), States are required to develop permit programs for facilities that may receive household hazardous waste or waste from conditionally exempt small quantity generators, and EPA determines whether the program is adequate to ensure that facilities will comply with the revised criteria.

The MSWLF criteria are at 40 CFR part 258. These regulations are self-implementing and apply directly to owners and operators of MSWLFs. For many of these criteria, 40 CFR part 258 includes a flexible performance standard as an alternative to the self-implementing regulation. The flexible standard is not self-implementing, and use of the alternative standard requires approval by the Director of a State with an EPA-approved program.

Because EPA's approval of a State program does not extend to Indian country, owners and operators of MSWLF units located in Indian country cannot take advantage of the flexibilities available to those facilities subject to an approved State program. However, the EPA has the authority under Sections 2002, 4004, and 4010 of RCRA to promulgate site-specific rules that may provide for use of alternative standards in Indian country. See *Yankton Sioux*

Tribe v. *EPA,* 950 F. Supp. 1471 (D.S.D. 1996); *Backcountry Against Dumps* v. *EPA,* 100 F.3d. 147 (DC Cir. 1996). EPA has developed draft guidance on preparing a site-specific request to provide flexibility to owners or operators of MSWLFs in Indian country (Site-Specific Flexibility Requests for Municipal Solid Waste Landfills in Indian Country Draft Guidance, EPA530–R–97–016, August 1997).

The regulation at 40 CFR 258.60(a) establishes closure criteria for MSWLF units that are designed to minimize infiltration and erosion. The regulation requires final cover systems to be designed and constructed to:

(1) Have a permeability of less than or equal to the permeability of any bottom liner system or natural sub-soils present, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less, and

(2) Minimize infiltration through the closed MSWLF by the use of an infiltration layer that contains a minimum of 18 inches of earthen material, and

(3) Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 6 inches of earthen material that is capable of sustaining native plant growth.

The regulation at 40 CFR 258.60(b) allows for variances from these specified MSWLF closure criteria. Specifically, the rule allows for the Director of an approved state to approve an alternative final cover design that includes:

(1) An infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in paragraphs (a)(1) and (a)(2) of 40 CFR 258.60, and

(2) An erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified in paragraph (a)(3) of 40 CFR 258.60.

C. Overview of Lake County's Site-Specific Flexibility Request and EPA's Action

Today, EPA is making a final determination to approve Lake County's site-specific flexibility request to install an alternative final landfill cover that meets the requirements of 40 CFR 258.60(b). The County's request is discussed in further detail in the February 10, 2010 proposal.

EPA is basing its final determination on a number of factors, including unsaturated soil modeling, site-specific climatic and soils data, and the results of a pilot test of the viability of an evapotranspiration cover conducted at the site by the County's consultants, the Desert Research Institute, and EPA. The results of the pilot test indicated that the evapotranspiration cover will perform better than the standard prescriptive cover in 40 CFR 258.60(a) in preventing movement of leachate through the system.

EPA has determined that Lake County has demonstrated that the proposed infiltration layer for the landfill cover achieves an equivalent reduction in infiltration as the infiltration layer specified in paragraphs (a)(1) and (a)(2) of 40 CFR 258.60, and the erosion layer provides equivalent protection from wind and water erosion as the erosion layer specified in paragraph (a)(3) of 40 CFR 258.60. On January 22, 2009, Lake County submitted a "Construction Quality Assurance & Control Plan" for the closure project that specifies that testing will be performed on each component as it is installed. Testing frequencies and standards during construction are described in detail in the "Construction Quality Assurance and Control Plan."

As part of this final determination, EPA is requiring that Lake County submit to EPA for approval at 50% final design, an Operations and Maintenance Plan that includes an inspection schedule (at least quarterly) and remediation plan to address any potential rodent damage to the final cover. Lake County must achieve re-vegetation rates of greater than 50% on the closed landfill by the end of the first season and a complete stand of native grasses by the end of the third season. EPA is also requiring the landfill owner and operator to place documentation demonstrating compliance with the provisions of the site-specific rule in the operating record.

D. Summary of Public Comments Received and Response to Comments

EPA received no comments during the public comment period regarding approval of an alternative final cover for the Lake County, Montana landfill, as proposed in the **Federal Register** on February 10, 2010.

II. Statutory and Executive Order Reviews

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this rule is not of general applicability and, therefore, is not a regulatory action subject to review by the Office of Management and Budget (OMB).

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only.

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this rule will affect only a particular facility, this proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism," (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is EPA's analysis of the potential risks posed by Lake County's proposal and the controls and standards set forth in the application.

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

As required by section 3 of Executive Order 12988, "Civil Justice Reform," (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments," (65 FR 67249, November 9, 2000), calls for EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have tribal implications." EPA has concluded that this action may have Tribal implications because it is directly applicable to a facility operating on the Confederated Salish and Kootenai Tribes' Flathead Reservation. However, this

determination will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law. This determination to approve the Lake County's application will affect only the Lake County's operation of the County's landfill.

EPA consulted with the Confederated Salish and Kootenai Tribes early in the process of making this determination to approve the County's alternative final cover request so that the Tribes had the opportunity to provide meaningful and timely input. Between 2007 and 2009, technical issues were raised and addressed by both the Tribes and EPA concerning Lake County's proposal. EPA's consultation with the Tribes culminated in a letter of July 15, 2009, from the Tribes, in which they stated that they have no further issues with the Lake County proposal. The Tribes did not offer any additional comments during the public comment period announced in the **Federal Register** on February 10, 2010.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards, (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide to Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The technical standards included in the application were proposed by Lake County. Given EPA's obligations under Executive Order 13175 (see above), the Agency has, to the extent appropriate, applied the standards established by the County and accepted by the Tribes. In addition, the Agency evaluated the proposal's design against the engineering design and construction criteria contained in the EPA draft guidance document, "Water Balance Covers for Waste Containment: Principles and Practice (2009)."

Authority: Sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6907, 6912, 6944, and 6949a. Temporary Delegation of Authority to Promulgate Site-Specific Rules to Respond to Requests for Flexibility from Owners/Operators of Municipal Solid Waste Landfill Facilities in Indian Country, October 14, 2009, Incorporation by Reference.

List of Subjects in 40 CFR Part 258

Environmental protection, Incorporation by reference, Municipal landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: April 22, 2010.

Carol Rushin,

Acting Regional Administrator, Region VIII.

Editorial Note: This document was received in the Office of the Federal Register on August 11, 2010.

■ For the reasons stated in the preamble, 40 CFR part 258 is amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

■ 1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c), 6981(a).

Subpart F—[Amended]

■ 2. Add § 258.62 to subpart F to read as follows:

§ 258.62 Approval of Site-Specific Flexibility Requests in Indian Country.

(a) *Lake County Municipal Landfill final cover requirements.* Paragraph (a) of this section applies to the Lake County Landfill, a municipal solid waste landfill owned and operated by Lake County on the Confederated Salish and Kootenai Tribes' Flathead Reservation in Montana. The alternative final cover request submitted by Lake County, Montana, consisting of the "Lake County Landfill Alternative Cover," dated May 2007, the "Construction Quality Assurance & Control Plan for the Lake County Class II Landfill Unit Landfill Closure Project" and the "Lake County Landfill Plans for Final Closure January 2009," dated January 2009, is hereby incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect or obtain a copy at the Environmental Protection Agency, Region VIII, Montana Office, 10 West 15th St., Suite 3200, Helena, MT or by calling 406–457–5000. You may also inspect a copy at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* The facility owner and/or operator may close the facility in accordance with this application, including the following activities more generally described as follows:

(1) The owner and operator may install an evapotranspiration system as an alternative final cover for the 15.4 acre active area.

(2) The final cover system shall consist of a 5.5-feet-thick multi-layer cover system comprised, from bottom to top, of an 18-inch intermediate and gas vent layer, a 24-inch native sand layer, an 18-inch imported silt layer and a 6-inch topsoil layer, as well as seeding and erosion control.

(3) The final cover system shall be constructed to achieve an equivalent reduction in infiltration as the infiltration layer specified in § 258.60(a)(1) and (a)(2), and provide an equivalent protection from wind and water erosion as the erosion layer specified in paragraph (a)(3) of this section.

(4) In addition to meeting the specifications of the "Lake County Landfill Alternative Cover" dated May 2007, and the "Construction Quality Assurance & Control Plan for the Lake County Class II Landfill Unit Landfill Closure Project" dated January 2009, the owner and operator shall:

(i) At 50% final design, submit to EPA for approval an Operations and Maintenance Plan that includes an inspection schedule (at least quarterly) and remediation plan to address any potential rodent damage to the final cover; and

(ii) Achieve re-vegetation rates greater than 50% by the end of the first season and a complete stand of native grasses by the end of the third season.

(5) The owner and operator shall place documentation demonstrating compliance with the provisions of this Section in the operating record.

(6) All other applicable provisions of 40 CFR part 258 remain in effect.

[Reserved]

[FR Doc. 2010–20184 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2010–0468–FRL–9190–6]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Commonwealth of Massachusetts applied to EPA for final

authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA determined that these changes satisfy all requirements needed to qualify for final authorization and recently authorized the State's changes through an immediate final action. In the immediate final action, EPA also stated that "Massachusetts is not authorized to carry out its hazardous waste program in Indian country." An adverse comment was filed regarding this determination (but not otherwise challenging the authorization decision). Therefore, EPA is today responding to this comment and making a final decision that the updated authorization does not apply to Indian country. In addition, EPA is correcting an error in the immediate final action rule.

DATES: The authorization of Massachusetts' program revisions shall continue to take effect on August 23, 2010 as provided in the immediate final rule. Today's decision that the updated authorization does not apply to Indian country also will be final, effective August 23, 2010.

ADDRESSES: *Docket:* EPA has established a docket for this action under Docket ID No. EPA–R01–RCRA–2010–0468. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although it may be listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the following two locations: (i) Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street—8th Floor, Boston, MA 02108, business hours Monday through Friday 9 a.m. to 5 p.m., tel: (617) 556–1096; and (ii) EPA Region I Library, 5 Post Office Square, 1st Floor, Boston, MA 02109–3912, by appointment only, (617) 918–1990.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, RCRA Waste Management Section, Office of Site Remediation and Restoration (OSRR 07–1), EPA New England—Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; telephone number: (617) 918–1642; fax number: (617) 918–0642, e-mail address: *biscaia.robin@epa.gov*.

SUPPLEMENTARY INFORMATION: The Massachusetts program revisions authorized by EPA through the recent immediate final action are identified in the immediate final rule, 75 FR 35660 (June 23, 2010). Since no adverse comments were received regarding EPA's decision to authorize these revisions, the decision to authorize the revisions is not being withdrawn and will continue to take effect on August 23, 2010 as provided in the immediate final rule.

However, in the immediate final rule, EPA also stated that "Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State (land of the Wampanoag Tribe). Therefore, EPA will continue to implement and administer the RCRA program in these lands." *Id.* at 35665. An adverse comment was received regarding this determination, worded as follows: "Through federalism, Massachusetts as one of the 50 sovereign united States, should have the authority to protect its residents from hazardous waste contaminating our water and air within our boundaries. Whenever the Massachusetts regulations exceed the Federal regulations or are broader, the EPA through comity should be enforcing the higher Massachusetts standards within Indian country." Since an adverse comment was received on this issue, the determination regarding whether the authorization applies within Indian country will not take effect as a final decision based on the immediate final rule. Rather, EPA instead has considered the comment and is making its final determination regarding the effect of the authorization decision on Indian country in today's final rule.

Massachusetts has not applied for authority to operate its RCRA program within Indian country. In the absence of any request from the State, the EPA has no occasion for considering whether it would grant Massachusetts such authority. Thus, in the absence of any request from the State, the EPA cannot agree with the commenter that Massachusetts should be granted the authority to operate its program in Indian country. Rather, the EPA administered RCRA program will continue to apply in those lands.

The EPA also cannot agree with the commenter that it should be enforcing the Massachusetts requirements rather than the Federal RCRA requirements, within Indian country. As a legal matter, for areas where the EPA directly administers the RCRA program, the EPA must enforce its own requirements rather than a State's requirements.

Thus, the EPA is today making the final determination that Massachusetts is not authorized to carry out its hazardous waste program in Indian country within the State (land of the Wampanoag Tribe). Therefore, EPA will continue to implement and administer the RCRA program in these lands. This determination affects only the land in the town of Gay Head (Aquinnah), Massachusetts, taken into trust by the Department of the Interior for the Wampanoag Tribal Council of Gay Head, Inc., as authorized by the Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987. *See* 25 U.S.C. 1771–1771i.

In addition, EPA is today correcting an error in the immediate final action rule. At page 35664 of that rule, the EPA authorized the State to regulate waste codes P188, Physostigmine Salicylate, and P204, Physostigmine, under Checklist 140. However, on page 35663 of that rule, the EPA erroneously stated that the State was not being authorized for those two waste codes. This incorrect statement should be disregarded. The authorization of the State to regulate those two waste codes will take effect on August 23, 2010, along with the rest of the immediate final rule.

The ways in which the EPA has complied with various administrative requirements regarding the authorization action is set out in part L. of the immediate final rule. No further steps are required in order to make today's final determination.

List of Subjects in 40 CFR Part 271

Environmental protection, Hazardous waste, Indian lands.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 9, 2010.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 2010–20469 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100510220-0334-03]

RIN 0648–AY90

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closures in the Southeast Region Due to the Deepwater Horizon MC252 Oil Spill; Publication of Coordinates

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

ACTION: Temporary rule; emergency action.

SUMMARY: NMFS has taken emergency action through a series of emergency rules to prohibit all fishing and harvesting of marine resources in areas of the United States exclusive economic zone (EEZ) that are impacted by the Deepwater Horizon MC252 oil spill. The most recent of these emergency rules, which became effective on May 11, 2010, and continues to remain in effect, allows NMFS to make more timely revisions to the area closed to all fishing. The rule established a protocol for reopening closed areas and a procedure to inform the public of the specific coordinates of the Federal closed area related to the Deepwater Horizon MC252 oil spill (fishery closed area) via a broad range of information transfer tools. NMFS is publishing this temporary rule to provide additional notice to the regulated public by designating the current boundary coordinates for the area closed to all fishing and the area reopened to finfish harvest only in the Gulf of Mexico (Gulf), thereby increasing seafood safety and public safety. Future changes to the closed area will continue to be made using the procedure established by the emergency rule effective May 11, 2010.

DATES: This rule is effective August 13, 2010.

FOR FURTHER INFORMATION CONTACT: Anik Clemens, telephone: 727–824–5305, fax: 727–824–5308, e-mail: *anik.clemens@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides the legal authority for the promulgation of emergency regulations under section 305(c).

Background

NMFS responded to the April 20, 2010 Deepwater Horizon MC252 oil spill by closing a portion of the Gulf EEZ to all fishing through an emergency rule effective May 2, 2010 (75 FR 24822, May 6, 2010). Oil continued to leak from the Deepwater Horizon MC252 site and the spatial and temporal location of the oil in the Gulf EEZ continued to change. NMFS revised the closed area in a second emergency rule that became effective May 7, 2010 (75 FR 26679, May 12, 2010). The dynamic situation regarding the Deepwater Horizon MC252 oil spill required a method to respond rapidly to changing conditions. Delaying the announcement of the new fishery closed area could have led to the possible harvest of adulterated seafood products. Therefore, NMFS issued a third emergency rule, effective May 11, 2010 (75 FR 27217, May 14, 2010) that allowed NMFS to revise the closed area as needed (on a daily or weekly basis) and announce the revised closed area via NOAA Weather Radio, Fishery Bulletin, and NOAA Web site updates, without the need to announce the new closure boundary coordinates in the **Federal Register**.

Reopening Protocol

The third emergency rule also identified a protocol for reopening closed areas. Closed areas may be reopened if NMFS has determined that oil from the Deepwater Horizon MC252 oil spill has never been in those areas. Closed areas may also be reopened if NMFS has determined that fish and other marine species within the closed area meet FDA standards for public health and wholesomeness. Finfish and other marine species, including invertebrates, are sampled from within the closed area at different rates. They also metabolize oil at different rates. Therefore, reopening closed areas may occur for finfish and invertebrates at different rates as well. In collaboration with the FDA, NOAA has developed specific technical guidelines for reopening oil-impacted areas closed to seafood harvesting under this protocol. A summary of these procedures may be found at: *http://www.fda.gov/Food/ucm217598.htm*.

Need for this Temporary Rule

Currently, the public may obtain the updated boundary coordinates for the fishery closed area by listening to NOAA Weather Radio, visiting various NOAA Web sites, reading the e-mailed or posted Fishery Bulletins, receiving a text message or a tweet that the closed area has been revised, or by calling the Deepwater Horizon MC252 oil spill hotline number (1–800–627–6622) to listen to a recorded message of the updated boundary coordinates. To improve public outreach, the fishery bulletins and the recorded messages are also available in Spanish and Vietnamese.

This rulemaking would provide another means of informing the public of the boundary coordinates of the area closed to all fishing as well as the area reopened to finfish only. NMFS anticipates that the fishery closed area will continue to be reduced in size in the upcoming months, and subsequent publication of an expanded area would be unnecessary. The area closed to all fishing related to the Deepwater Horizon MC252 oil spill, as of August 13, 2010, is that part of the Gulf EEZ shoreward of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	FL State/ EEZ boundary	87°00’
B	29°30’	87°00’
C	29°30’	86°00’
D	28°24’	86°00’
E	28°19’	85°30’
F	27°00’	85°30’
G	27°00’	86°23’
H	27°39’	89°50’
I	27°35’	90°33’
J	28°36’	91°08’
K	28°36’	91°32’
L	28°58’	91°40’
M	29°31’	93°36’
N	LA State/ EEZ boundary	93°30’

The area reopened to finfish harvest only, as of August 13, 2010, is that part of the Gulf EEZ shoreward of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	FL State/ EEZ boundary	85°29’
B	28°23’	85°55’
C	28°24’	86°00’

Point	North lat.	West long.
D	29°30'	86°00'
E	29°30'	87°00'
F	LA State/ EEZ boundary	87°00'

The intent of this temporary rule is to provide additional notice only and has no affect on the emergency rule that became effective May 11, 2010 (75 FR 27217, May 14, 2010) and which continues to remain in effect. Future changes to the closed area will continue to be made using the procedure established by that emergency rule.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1855(c).

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

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Prior notice and the opportunity for public comment would be unnecessary. It is unnecessary because the rule is merely publishing the coordinates for a closed area that is already in effect. Thus, it creates no new restrictions on persons in the closed area. This temporary rule is simply providing additional public notice of the current coordinates of the area closed to all fishing and the area reopened to finfish harvest.

For the reasons stated above, the AA also finds good cause to waive the 30–day delay in effective date of this rule under 5 U.S.C 553(d)(3).

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

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

Dated: August 12, 2010.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2010–20345 Filed 8–13–10; 11:15 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 75, No. 159
Wednesday, August 18, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AC60

Loan Policies and Operations; Lending and Leasing Limits and Risk Management

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, we, our), by the Farm Credit Administration Board, is publishing for comment proposed amendments to our regulations relating to lending and leasing limits. We propose lowering the current limit on extensions of credit to a single borrower for each Farm Credit System (System) institution operating under title I or II of the Farm Credit Act of 1971, as amended (Act). The proposed rule would not affect the lending and leasing limits of title III lenders under § 614.4355. However, we are proposing that all titles I, II and III System institutions adopt written policies to effectively identify, limit, measure and monitor their exposures to loan and lease concentration risks. This proposed rule, if adopted, would increase the safe and sound operation of System institutions by strengthening their risk management practices and abilities to withstand volatile and negative changes in increasingly complex and integrated agricultural markets.

DATES: You may send comments on or before October 18, 2010.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *E-mail:* Send us an e-mail at *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or from our Web site at *http://www.fca.gov.* Once you are in the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: Paul K. Gibbs, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or Wendy R. Laguarda, Assistant General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this proposed rule are to:

- Strengthen the safety and soundness of System institutions;
- Ensure the establishment of consistent, uniform and prudent concentration risk management policies by System institutions;
- Ensure that all System lenders have robust methods to identify, measure, limit and monitor exposures to loan and lease concentration risks, including counterparty risks; and
- Strengthen the ability of System lenders to withstand volatile and negative changes in increasingly complex and integrated agricultural markets.

The proposed regulation would not change the following provisions of the current lending limits rule: Definitions under § 614.4350; computation of lending and leasing limit base under § 614.4351; lending and leasing limits for Banks for Cooperatives (BCs) under § 614.4355; BCs look-through notes under § 614.4357; the base calculation for computing the lending and leasing limit under § 614.4358; the attribution rules under § 614.4359; lending and leasing limit violations under § 614.4360; or the transition period prescribed in § 614.4361.[1]

We have elected not to address the lending limits for title III lenders at this time because of the complexity of the issues involved in lending to cooperatives under title III of the Act. Should the Agency decide to address the BCs lending limits at some future time, we will do so in a separate rulemaking.

All System institutions, including title III institutions, would be given 6 months from the effective date of new § 614.4362 to establish and implement written policies on limiting exposures to on- and off-balance sheet loan and lease concentration risks as prescribed therein.

II. Background

The Act[2] does not contain general lending and leasing limits for titles I and II System institutions outside of specific limits for processing and marketing and rural housing loans. However, both the Agency and the System recognize that lending limits are a sound banking practice and an effective risk management tool that enhance the safety and soundness of individual System institutions and the System as a whole. The Agency's current lending limit regulations,[3] promulgated in 1993 with an effective date in 1994, were issued due to the System's structural changes resulting from the Agricultural Credit Act of 1987 (1987 Act).[4] This regulation created a uniform lending limit for all System banks and associations, with the exception of BCs,

[1] The proposed changes will not change existing regulations covering underwriting standards or lending procedures under § 614.4150.

[2] Public Law 92–181, 85 Stat. 583 (Dec. 10, 1971).

[3] *See* 58 FR 40311, July 28, 1993.

[4] Public Law 100–233, 101 Stat. 1568 (Jan. 6, 1988).

and for all types of loans and leases. The 25-percent lending limit represented a balance between the Agency's safety and soundness concerns and the System's concerns of being able to service the credit needs of creditworthy, eligible borrowers.[5]

The current regulations do not impose lending limits based on specified risks, such as undue industry concentrations, counterparty risk, ineffective credit administration, participation and syndication activity, inadequate management and accounting practices, or other shortcomings that might have been present in a System institution's financial position or business practices. When the Agency issued the final regulations in 1993, we stated "limiting the amount that can be lent to any one borrower or a group of related borrowers is an effective way to control concentrations of risk in a lending institution and limit the amount of risk to an institution's capital arising from losses incurred by large 'single credits.'"[6] Other than concentration of risk to a single borrower, the Agency left it up to each individual System lender to address industry, counterparty and other concentrations of risk.

III. Proposed Limit on Loans and Leases to One Borrower/Lessee

A. In General

The Agency is proposing to lower the lending and leasing limit on loans and leases (loans) to one borrower or lessee (borrower) for all System institutions operating under title I or II of the Act from the current limit of 25 percent to no more than 15 percent of an institution's lending and leasing limit base. Specifically, FCA proposes to lower the lending and leasing limit in §§ 614.4352, 614.4353 and 614.4356 to 15 percent. We are interested in receiving comments on the implications of this proposed limit for the smallest-sized associations in the System. As noted above, the calculation for the lending and leasing limit base in § 614.4351 would remain unchanged, as would the lending and leasing limit base in § 614.4355 for title III lenders. The proposed 15-percent limit would apply on the date a loan or lease is made and at all times thereafter, with certain exemptions for loans that violate the lending limit as set forth in § 614.4360.[7]

The Agency believes the proposed 15-percent limit is appropriate and necessary for the safe and sound operation of the System, given the changes in the System's structure, growth, authorities and practices since the current regulations became final in 1994. While the proposed 15-percent limit is more in line with the practices of a majority of System lenders, which have established, by policy, internal lending limits well below the current regulatory limit, some System lenders rely on the current 25-percent regulatory limit. Given the extensive System practice of establishing internal hold limits well below the regulatory maximum and the significant concentration risk a 25-percent limit represents, FCA concludes that all System lenders should be required to implement internal lending limits at or below the proposed 15-percent limit based on their institutions' specific circumstances, resources, financial condition, business activities and capability.

B. Substantial Changes in System Structure Since the 25-Percent Limit Was Adopted

Since 1994, System banks have shifted their focus from supervising their district associations to operating as funding banks that predominately extend direct loans to, and manage funding for, their district associations. In turn, all associations have become direct lenders, no longer acting as agents for the district banks or relying on district bank policies for their day-to-day operations. During this same time period, the associations have gone through significant restructurings and consolidations. Today, there are fewer than 90 associations in the System and all but a few of them are structured as agricultural credit associations with Federal land credit and production credit association subsidiaries. The proposed 15-percent lower lending limit is more appropriate to these larger consolidated direct lender associations, operating primarily as stand-alone lending institutions with greater lending capacity than ever before.

C. Substantial Growth in System Lending Capacity Since the 25-Percent Limit Was Adopted

Coupled with these operational and structural changes, there has been substantial growth in the capital bases of System institutions since 1994, giving them much greater capacity to meet the needs of large borrowers. For example, the median System institutions based on permanent capital totaled $13.7 million at year-end 1994, compared to $98.5 million at year-end 2009. This change represents a 621-percent increase in capital and has increased the 25-percent lending limit amount in the median System institution from $3.4 million to $24.6 million. Additionally, when you compare the 25-percent lending limit amount for the median System institution in 1994 to a 15-percent lending limit amount for a median System institution in 2009, there is effectively a 333-percent increase in the amount of the lending limit due to the increase in the median size of System institutions. Furthermore, when you compare the 25-percent lending limit amount for the smallest and largest System institutions in 1994 to a 15-percent lending limit amount for the smallest and largest System institutions in 2009, there is effectively an increase in the maximum amount of a loan that could be made to a single borrower from $105,000 to $822,000 (a 685-percent increase) for the smallest System institution and from $188 million to $566 million (a 202-percent increase) for the largest System institution.

Accordingly, because of the substantial growth in the System's lending capacity, the current 25-percent lending limit is no longer prudent or necessary to meet the needs of the System's borrowers. While the borrowing needs of the System's largest borrowers have also increased, the tools available to the System today (such as participations, syndications and guarantees) have made it possible to meet those needs with lower, more prudent lending and leasing limits. Such tools can also work to mitigate lending risks by enabling System lenders to share credit risk with each other as well as with other non-System lenders and governmental entities.

D. Majority of System Institution Lending Limit Practices

The Agency has found that a majority of System lenders have implemented internal lending limits at levels not only lower than the current 25-percent regulatory limit but, in many cases, lower than the proposed 15-percent limit. Therefore, the proposed 15-percent limit would be in line with a majority of the current lending practices in the System and, we believe, would not significantly disrupt System institution operations.

The Agency also believes that even with the proposed lower limit of 15 percent, the growth in System capital since 1994 leaves sufficient lending and leasing capacity in the System to adequately serve the credit needs of creditworthy, eligible borrowers.

[5] *See* 58 FR 40311, 40318, July 28, 1993.

[6] *Id.* at 40311.

[7] Section 614.4360 and its stated exemptions from the requirements of § 615.5090 remain unchanged, as noted earlier.

E. Enhanced System Authorities Since the 25-Percent Limit Was First Adopted

Since 1994, System institutions have used the authorities granted under the Act and implemented through FCA regulations to increase their loan portfolios and meet the mission of providing sound, adequate and constructive credit to American agriculture. During this time period, loans to processing and marketing operations have increased to meet the changing nature and needs of farming over the last decade and a half. Likewise, the System's ability to participate and syndicate loans both within and outside of the System has also grown since 1994. System institutions now routinely serve large borrowers by buying and selling participation and syndication interests to other System institutions and other lenders.

The System's lending authorities ensure adequate credit for the next generation of farmers and are necessary for the future of a strong and stable agricultural industry. The System's lending authorities also allow farmers and ranchers to diversify their incomes and financial portfolios. However, the varied loans made for multiple agricultural purposes are not without a degree of risk, particularly when concentrations are not identified, measured, and managed. Similarly, while the System's increased participation and syndication channels reduce the risk of credit to large borrowers and enable System institutions to continue serving such large customers notwithstanding the proposed 15-percent lower lending limit, they also are not without some risk. Such lending channels increase counterparty risks, or those risks created by the potential default of the multiple parties doing business with the System.

Therefore, System institutions must carefully manage and control the counterparty risk posed by purchasing or selling loan exposures through participations or syndications to other System and non-System lenders. With appropriate use and risk controls over syndications and participations, the Agency believes that the proposed 15-percent lower lending limit would reduce the potential risks of all large loans without jeopardizing the System's ability to provide the varied and multiple forms of credit that are necessary in today's agricultural environment.

F. Lending Limits of Other Federally Chartered Lending Institutions

We recognize that a single industry lender like the System is not comparable in many respects to other Federally chartered lending institutions with more diverse lending authorities. Consequently, different factors are considered when arriving at a lending limit for the System. Notwithstanding these differences, we note that the 15-percent proposed lower lending limit for the System is comparable to the lending limits of other Federally chartered lending institutions.[8] We do not believe, therefore, that the proposed lower limit would put System institutions at a competitive disadvantage in the agricultural lending marketplace.

G. Repeal of § 614.4354

The proposed rule would repeal § 614.4354 pertaining to Federal land bank associations (FLBAs) since such associations have all been converted to direct lending institutions. We note, however, that the repeal of § 614.4354 does not affect, modify, or change in any manner FCA's authority to charter an FLBA without direct lending authority in the future. If we were to issue such a charter at some future point, this provision of the regulation would be repromulgated to establish a lending limit for such an association.

H. Transition Period for Lower Lending Limit

As previously noted, the proposed regulations would not change the existing transition rules in § 614.4361. However, we want to make clear that this section should be read as providing that certain nonconforming loans (including commitments) made or attributed to a borrower prior to the effective date of existing subpart J, or the amendments proposed herein, will not be considered a violation of the lending and leasing limits during the existing contract terms of such loans, provided such loans complied with the regulatory lending limit when made.

IV. Policy on Limiting Exposures to Loan and Lease Concentration Risks

A. In General

In addition to proposing a lower limit on loans to one borrower, FCA is proposing that each System lender's board of directors adopt and ensure implementation of a written policy that would effectively identify, measure, limit and monitor exposures to loan and lease concentration risks. This policy should include both on- and off-balance sheet loan and lease exposures (participation and syndication activity).

The country's recent economic crisis revealed the increasing complexity and volatility of the financial world over the past few decades. The increase in types and complexity of financial instruments—including mortgage-backed securities, collateralized debt obligations and credit default swaps—along with the rise in imprudent home mortgage lending practices helped to create the current instability and uncertainty in the financial lending markets that System institutions, along with all other lenders, are experiencing today.

Like the growing complexity in the financial markets, agricultural markets and industries have also become more complex, integrated, inter-related and potentially turbulent over the years. The System has not been immune to these financial or agricultural instabilities. For instance, the recent financial woes in the biofuels industry (namely ethanol) that the System funded left many System institutions with large troubled loans with related potential loss exposures. Similarly, the recent financial troubles of the largest poultry industry producer in the United States had a domino and damaging effect on contract poultry growers throughout the industry, which demonstrated the impact of concentration risk and ultimately created credit stress in several System institutions. For these reasons, we believe enhanced focus on all loan and lease concentration risks is essential.

B. Safety and Soundness

While many System lenders have adopted policies to manage their exposures to loan concentration risks, a number of institutions do not have any formal or written policies in place. Furthermore, some of those System institutions with established internal concentration limits operate without board policies that adequately address all aspects of identifying, measuring, limiting and monitoring those concentration risks that could adversely impact the institution's financial performance. FCA believes that the proposed policy requirements would ensure a comprehensive approach to mitigating loan and lease concentration risks and would represent a best practice in loan portfolio management. Such policies would help ensure the continuance of a safe and sound System by potentially reducing exposures to concentration risks.

[8] *See, e.g.,* 12 CFR 32.3 (Office of the Comptroller of the Currency); 12 CFR 560.93 (Office of Thrift Supervision); and 12 CFR 701.21 and 12 CFR 723.8 (National Credit Union Administration).

The proposed policy requirement is intended to address vulnerabilities in System loan portfolios resulting from both on- and off-balance sheet loan concentration risks, in particular those concentration risks that are not addressed by the attribution provisions of § 614.4359.

The Agency recognizes that there is not one ideal uniform approach to a loan concentration risk mitigation policy. Accordingly, this proposal outlines only the minimally required elements of such a policy. We have placed substantial responsibility on the board of directors to establish more detailed policies and procedures appropriate to the nature and scope of their institutions' credit activities, territory and risk-bearing capacity. For example, under the category of "other concentration risks," System banks may find it necessary to develop policies that focus on district-wide loan concentrations and on the participation and syndication loans in their portfolios.

C. Policy Elements

In addition to the specific loan and lease concentration risk exposures discussed below under "Quantitative Methods" in Part D, we are proposing to require that the policy include the following elements to ensure that it is properly developed, implemented and monitored:

1. *A clearly defined purpose and objective statement* that sets forth the objectives of the policy and specific means of achieving such objectives. The Agency believes that such a statement would engage System boards of directors in forming a philosophy and direction for the management of their institutions' loan portfolio in the area of concentration risk mitigation.

2. *Clearly defined terms* that are used consistently throughout the policy.

3. *Internal control requirements that:*

a. *Define those authorities delegated to management.* Such requirements should set forth organizational structure and reporting lines that clearly delineate responsibility and accountability for all management functions pertaining to mitigating exposures to both on- and off-balance sheet loan and lease concentration risks, including risk identification, measurement, limitation and oversight. In addition, the policy should establish, when feasible, a separation of duties between personnel executing transactions and those responsible for approval, evaluation and oversight of credit activities. This separation of duties promotes integrity and accuracy in lending practices that reduces the risk of loss. Finally, the policy should cross-reference the conflict of interest regulations in part 612 of this chapter to ensure that employees directly involved in lending and leasing are aware of their responsibilities to disclose actual or apparent conflicts with their official duties.

b. *Define those authorities retained for board action.* Each institution's board of directors has a fiduciary duty to ensure that its institution's lending and leasing activities are prudently managed and in compliance with all applicable laws and regulations. Additionally, the board must ensure that the institution has adequate and qualified personnel to manage the risks associated with its lending and leasing activities. To this end, the Agency encourages each System board of directors to review its loan and lease portfolio concentration risk mitigation policy every year and make any adjustments that are necessary and proper in light of the institution's financial position and the lending environment.

c. *Address exceptions to the policy.* Such procedures should set forth the basis for detecting deviations from, and making exceptions to, the policy requirements. In addition, the policy should describe the duties and responsibilities of management with regard to recommending and reporting on policy deviations or exceptions to the institution's board of directors, including what corrective actions must be taken to restore compliance with the policy. In no event may the lending and leasing limit exceed the applicable regulatory limits for title I, II, or III institutions.

d. *Describe reporting requirements.* Such requirements should describe the content and frequency of the reports and the office or individual(s) responsible for preparing them for an institution's board of directors. The reports should focus on providing information that interprets the data and focuses the board on what is crucial to understand and consider.

D. Quantitative Methods

The Agency is proposing that each policy contain a quantitative method(s) to measure and limit identified exposures to on- and off-balance sheet loan and lease concentrations emanating from:

(i) A single borrower;

(ii) Borrowers in a single sector in the agricultural industry;

(iii) A single counterparty; or

(iv) Unique factors because of the institution's territory, nature and scope of its activities and risk-bearing capacity. Unique concentration exposures might include, but not limited to, borrowers that are reliant on the same processor, marketer, manager, integrator or supplier (or any combination thereof).

Quantitative methods could include hold limits (for example, as a percentage of risk funds, capital, earnings/net income or other appropriate measurements or methods) that reasonably measure and limit concentration risk exposures. We emphasize that the proposed 15-percent regulatory limit on loans to one borrower establishes a ceiling limit. We encourage System institutions to choose more conservative limits on loans to one borrower as a majority of them have done under the current regulatory limit. When arriving at quantitative methods, System institutions should strongly take into account the stability and strength of their capital positions and set their hold limits or other risk management measures accordingly.

The following are examples of concentration risk exposures that might be unique to a lender's territory:

- An institution has a preponderance of borrowers in its territory that are dependent on off-farm income from the same area manufacturing plant where the potential downsizing or closing of the plant could have a negative effect on loan repayment abilities.
- An institution has a preponderance of independent borrowers selling production to a very limited market (such as farmers selling eggs, sugar beets, cranberries) where a squeeze in the market could have a negative effect on loan repayment abilities.
- An institution has a preponderance of borrowers structured as limited liability companies or partnerships in which the same individuals or group of individuals own interests—not enough to trigger the attribution provisions under this subpart—but enough to create instability among the group of borrowers should the common investors experience financial difficulties.
- An institution has a preponderance of borrowers in a newly emerging market, such as biofuels, which also is an industry outside of the institution's area of expertise and in which volatile and unforeseen trends in the industry can have a negative effect on loan repayment abilities.

In all the foregoing examples, System institutions should prudently identify, measure, limit and monitor loan concentrations to these groups of borrowers.

In determining concentration risk limits, the policy should take into

consideration other risk factors that could reasonably identify foreseeable loan and lease losses. Such risk factors could include borrower risk ratings, the institution's relationship with the borrower, the borrower's knowledge and experience, loan structure, type and location of collateral (including loss given default ratings), loans to emerging industries or industries outside of an institution's area of expertise, out-of-territory loans, counterparties, or weaknesses in due diligence practices. This list is exemplary only and not meant to be exhaustive. The risk factors to be considered by an institution would depend on the unique circumstances of the institution's credit operations.

System institutions should give special consideration to counterparty risks. For example, when entering into a participation, the institution should consider how well it knows and trusts the originator to make full and fair disclosures and to competently service the loan. Conversely, when a System institution originates a participation, it must ensure that there are no material misrepresentations in its disclosures and that it has the ability to properly service the loan. System institution originators should also consider the risk of holding the entire loan should the loan become distressed and the counterparties prevail against the System institution in a lawsuit requiring the System institution to take back the participation. System institutions should consider the risks of concentrating too much of their participation and syndication loans with the same third party. Finally, System institutions should ensure that their policies prudently identify, measure, limit and monitor counterparty exposures with respect to their participation and syndication activity.

We emphasize that robust due diligence practices are especially important when institutions are making loans outside of their territories or core areas of expertise, or with counterparties.

E. Six-Month Timeframe To Issue a Policy

The proposed regulations would require all System lenders (including a title III lender) to establish written loan and lease concentration risk mitigation policies within 6 months from the effective date of these revised regulations. FCA believes that 6 months is a sufficient amount of time for System boards to design and adopt the policy requirements prescribed in new § 614.4362.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not "small entities" as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, Banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart J—Lending and Leasing Limits

§ 614.4352 [Amended]

2. Section 614.4352 is amended by:

a. Removing the comma after the word "borrower" and removing the number "25" and adding in its place, the number "15" in paragraph (a);

b. Removing the comma after the word "Act" and removing "exceeds 25" and adding in its place "exceed 15" in paragraph (b)(1); and

c. Removing the comma after the word "Act" and removing "exceeds" and adding in its place "exceed" in paragraph (b)(2).

§ 614.4353 [Amended]

3. Section 614.4353 is amended by:

a. Adding the words "direct lender" after the word "No";

b. Removing the comma after the word "borrower"; and

c. Removing "exceeds 25" and adding in its place "exceed 15".

§ 614.4354 [Removed]

4. Section 614.4354 is removed.

§ 614.4356 [Amended]

5. Section 614.4356 is amended by removing the number "25" and adding in its place, the number "15".

6. Section 614.4361 is amended by adding a new paragraph (c) to read as follows:

§ 614.4361 Transition.

* * * * *

(c) The loan and lease concentration risk mitigation policy required by § 614.4362 must be adopted and implemented within 6 months from the effective date of such section.

7. A new § 614.4362 is added to subpart J to read as follows:

§ 614.4362 Loan and lease concentration risk mitigation policy.

The board of directors of each System direct lender institution must adopt and ensure implementation of a written policy to effectively measure, limit and monitor exposures to concentration risks resulting from the institution's lending and leasing activities.

(a) *Policy elements.*

(1) The policy must include:

(i) A purpose and objective;

(ii) Clearly defined and consistently used terms;

(iii) Quantitative methods to measure and limit identified exposures to loan and lease concentration risks (as set forth in paragraph (b) of this section); and

(iv) Internal controls that delineate authorities delegated to management, authorities retained by the board, and a process for addressing exceptions and reporting requirements.

(b) *Quantitative methods.*

(1) At a minimum, the quantitative methods included in the policy must quantifiably measure and limit identified concentration risk exposures emanating from:

(i) A single borrower;

(ii) A single industry sector;

(iii) A single counterparty; or

(iv) Other lending activities unique to the institution because of its territory, the nature and scope of its activities and its risk-bearing capacity.

(2) In determining concentration limits, the policy must consider other risk factors that could reasonably identify foreseeable loan and lease losses. Such risk factors could include

borrower risk ratings, the institution's relationship with the borrower, the borrower's knowledge and experience, loan structure and purpose, type or location of collateral (including loss given default ratings), loans to emerging industries or industries outside of an institution's area of expertise, out-of-territory loans, counterparties, or weaknesses in due diligence practices.

Dated: August 12, 2010.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 2010–20367 Filed 8–17–10; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0797; Directorate Identifier 2010–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; B/E Aerospace Protective Breathing Equipment Part Number 119003–11 Installed on Various Transport Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for various transport airplanes equipped with certain B/E Aerospace protective breathing equipment (PBE) units. This proposed AD would require removing affected PBE units. This proposed AD results from reports of potentially defective potassium superoxide canisters used in PBE units, which could result in an exothermic reaction and ignition. We are proposing this AD to prevent PBE units from igniting, which could result in a fire and possible injury to the flightcrew or other persons.

DATES: We must receive comments on this proposed AD by October 4, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, KS 66215, phone: (913) 338–7378, fax: (913) 469–8419. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: David Fairback, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4154; fax (316) 946–4107.

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–2010–0797; Directorate Identifier 2010–NM–141–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have been notified that potassium superoxide canisters used in 119003–11 protective breathing equipment ignited on a vendor's test stand during quality assurance testing. Subsequent investigation revealed that potassium superoxide contained a high percentage of small particles that ignited. B/E Aerospace manufactured units with this chemical lot between February 15, 2010 and March 6, 2010. B/E Aerospace shipped 600 canisters with this lot of chemicals to part distributers, airplane manufacturers (including Airbus, ATR, Boeing, Bombardier, Embraer, Fokker, and Hawker Beechcraft), and airlines (including Emirates, Korean Airlines, and Shenzhen Airlines). This condition, if not corrected, could result in potentially defective canisters being used in on-board PBE units.

Relevant Service Information

We have reviewed B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010. This service bulletin describes procedures for doing an inspection to determine the serial number of the protective breathing equipment having part number 119003–11, and returning affected parts to B/E Aerospace.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and Service Information."

Differences Between the Proposed AD and Service Information

B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010, specifies a compliance time of within 30 days for PBE units in stock or stored as spares, and within the next maintenance check for in-service PBE units. This proposed AD would require compliance within 120 days after the effective date of this AD. B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010, specifies to return any faulty PBE units to B/E Aerospace; this proposed AD would not include that requirement.

Costs of Compliance

We estimate that this proposed AD would affect up to 600 aircraft 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 $0 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be up to $51,000, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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.

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

List of Subjects in 14 CFR Part 39

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

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:

B/E Aerospace: Docket No. FAA–2010–0797; Directorate Identifier 2010–NM–141–AD.

Comments Due Date

(a) We must receive comments by October 4, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to B/E Aerospace protective breathing equipment (PBE) units having part number (P/N) 119003–11. These PBE units may be installed on (or carried or stowed on board), but not limited to, various transport category airplanes, certificated in any category, identified in but not limited to the airplanes of the manufacturers specified in Table 1 of this AD.

TABLE 1—AFFECTED MANUFACTURERS

Manufacturers
Airbus
ATR
Boeing
Bombardier
Embraer
Fokker
Hawker Beechcraft

Subject

(d) Air Transport Association (ATA) of America Code 35: Oxygen.

Unsafe Condition

(e) This AD results from reports of potentially defective potassium superoxide canisters used in PBE units, which could result in an exothermic reaction and ignition. The Federal Aviation Administration is issuing this AD to prevent PBE units from igniting, which could result in a fire and possible injury to the flightcrew or other persons.

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.

Inspection

(g) Within 120 days after the effective date of this AD, inspect to determine the serial number of the of the PBE units installed in the aircraft, in accordance with the Accomplishment Instructions of B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010. A review of airplane records is acceptable in lieu of this inspection if the serial numbers of the PBE can be conclusively determined from that review.

(1) For any PBE that has a serial number from 003–50730M to 003–51329M inclusive: Before further flight, replace the PBE with a serviceable PBE, except as provided by paragraph (g)(2) of this AD.

(2) For any PBE that has a label showing that it has been restored in accordance with B/E Aerospace Service Bulletin 119003–35–6: The replacement has been done, and no further action is required.

Parts Installation

(h) As of the effective date of this AD, no person may install a PBE unit having P/N 119003–11 with a serial number ranging from 003–50730M to 003–51329M inclusive, unless it has a label showing it has been restored in accordance with B/E Aerospace Service Bulletin 119003–35–6, dated May 21, 2010.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: David Fairback, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4154; fax (316) 946–4107.

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

Issued in Renton, Washington, on August 10, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20486 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0593; Directorate Identifier 98–ANE–48–AD]

RIN 2120–AA64s

Airworthiness Directives; Pratt & Whitney JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines. That AD currently requires revisions to the engine manufacturer's time limits section (TLS) to include enhanced inspection of selected critical life-limited parts at each piece-part opportunity. This proposed AD would modify the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements and reduce the model applicability. Pratt & Whitney has developed and the FAA has approved improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. We are proposing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by October 18, 2010.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0593; Directorate Identifier 98–ANE–48–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

On December 1, 2005, the FAA issued AD 2005–25–05, Amendment 39–14398 (70 FR 73361, December 12, 2005), to require revisions to the TLS of the manufacturer's engine manual for these engines to include required enhanced inspection of selected critical life-limited parts at each piece-part opportunity.

New Inspection Procedures

Since the issuance of that AD, Pratt & Whitney has developed and the FAA has approved improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. This proposal would add new inspection methods to the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements for 1st stage compressor hubs, 3rd stage turbine disks, and 4th stage turbine disks.

Removal of Obsolete Engine Models

Also since the issuance of that AD, PW notified us that engine models JT8D–1, –1A, and –1B, have either been converted to other affected engine models or retired from service.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines of the same type design, the proposed AD would supersede AD 2005–25–05 to add new inspection methods for 1st stage compressor hubs, 3rd stage turbine disks, and 4th stage turbine disks, and would remove the –1, –1A, and –1B engine models from the applicability. For reference, this proposed AD carries forward the requirements from AD 2005–25–05. Also for reference, parts that have an Engine Manual Inspection Task and or Sub Task Number reference updated in the table in the compliance section of this AD, are identified by an asterisk (*) that precedes the part nomenclature.

Costs of Compliance

We estimate that this proposed AD would affect 1,527 JT8D –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 10 work-hours per engine to perform the proposed actions, and that the average labor rate is $85 per work-hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $1,297,950.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that

section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14398 (70 FR 73361, December 12, 2005) and by adding a new airworthiness directive to read as follows:

Pratt & Whitney: Docket No. FAA–2010–0593; Directorate Identifier 98–ANE–48–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by October 18, 2010.

Affected ADs

(b) This AD supersedes AD 2005–25–05, Amendment 39–14398.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines. These engines are installed on, but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC–9 series airplanes.

Unsafe Condition

(d) This AD results from the need to require enhanced inspection of selected critical life-limited parts of PW JT8D series turbofan engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

(f) Within the next 30 days after the effective date of this AD, (1) revise the Time Limits Section (TLS) of the manufacturer's engine manual, part number 481672, as appropriate for PW JT8D–7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines, and (2) for air carriers, revise the approved mandatory inspections section of the continuous airworthiness maintenance program, by adding the following:

"Critical Life Limited Part Inspection

A. Inspection Requirements:

(1) This section has the definitions for individual engine piece parts and the inspection procedures which are necessary when these parts are removed from the engine.

(2) It is necessary to do the inspection procedures of the piece parts in paragraph B when:

(a) The part is removed from the engine and disassembled to the level specified in paragraph B and

(b) The part has accumulated more than 100 cycles since the last piece part inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

(3) The inspections specified in this paragraph do not replace or make not necessary other recommended inspections for these parts or other parts.

B. Parts Requiring Inspection:

Note: Piece part is defined as any of the listed parts with all the blades removed.

Description	Section	Inspection No.
Hub (Disk), 1st Stage Compressor:		
*Hub Detail—All P/Ns	72–33–31	–03, –04, –05, –06
*Hub Assembly—All P/Ns	72–33–31	–03, –04, –05, –06
2nd Stage Compressor:		
Disk—All P/Ns	72–33–33	–02, –03
Disk Assembly—All P/Ns	72–33–33	–02, –03
Disk, 13th Stage Compressor—All P/Ns	72–36–47	–02
HP Turbine Disk, First Stage w/integral Shaft—All P/Ns	72–52–04	–03
HP Turbine, First Stage, w/separable Shaft:		
Rotor Assembly—All P/Ns	72–52–02	–04
Disk—All P/Ns	72–52–02	–03
Disk, 2nd Stage Turbine—All P/Ns	72–53–16	–02
*Disk, 3rd Stage Turbine—All P/Ns	72–53–17	–02, –03
*Disk (Separable), 4th Stage Turbine—All P/Ns	72–53–15	–02, –03
Disk (Integral Disk/Hub), 4th Stage Turbine—All P/Ns	72–53–18	–02"

(g) The parts that have an Engine Manual Inspection Task and or Sub Task Number reference updated in the table of this AD, are identified by an asterisk (*) that precedes the part nomenclature.

(h) Except as provided in paragraph (i) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the TLS of the manufacturer's engine manual.

Alternative Methods of Compliance (AMOC)

(i) You must perform these mandatory inspections using the TLS of the manufacturer's engine manual unless you receive approval to use an AMOC under paragraph (j) of this AD. Section 43.16 of the Federal Aviation Regulations (14 CFR 43.16)

may not be used to approve alternative methods of compliance or adjustments to the times in which these inspections must be performed.

(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.

Maintaining Records of the Mandatory Inspections

(k) You have met the requirements of this AD when you revise the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. For air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121), you have met the requirements of this AD when you modify your continuous airworthiness maintenance plan to reflect those changes. You do not need to record each piece-part inspection as compliance to this AD, but you must maintain records of those inspections according to the regulations governing your operation. For air carriers operating under part 121, you may use either the system established to comply with section 121.369 or an alternative accepted by your principal maintenance inspector if that alternative:

(1) Includes a method for preserving and retrieving the records of the inspections resulting from this AD; and

(2) Meets the requirements of section 121.369(c); and

(3) Maintains the records either indefinitely or until the work is repeated.

(l) These record keeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. These record keeping requirements do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Related Information

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

Issued in Burlington, Massachusetts, on August 6, 2010.

Peter A. White,

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

[FR Doc. 2010–20351 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0594; Directorate Identifier 98–ANE–43–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 turbofan engines. That AD currently requires revisions to the engine manufacturer's time limits section (TLS) to include enhanced inspection of selected critical life-limited parts at each piece-part opportunity. This AD requires modifying the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. Pratt & Whitney has developed and the FAA has approved improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by October 18, 2010.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0594; Directorate Identifier 98–ANE–43–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

On August 24, 2005, the FAA issued airworthiness directive (AD) 2005–18–02, Amendment 39–14242 (70 FR 52004, September 1, 2005), to require revisions to the TLS of the manufacturer's engine manual for these engines to include required enhanced inspection of selected critical life-limited parts at each piece-part opportunity.

New Inspection Procedures

Since the issuance of that AD, Pratt & Whitney has developed and the FAA has approved improved inspection procedures for the critical life-limited parts. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. This proposal would add new inspection methods to the TLS of the manufacturer's engine manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements for 1st stage compressor hubs, 3rd stage turbine disks, and 4th stage turbine disks.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT8D–209, –217, –217A, –217C, and –219 turbofan engines of the same type design, the proposed AD would supersede AD 2005–18–02 to add new inspection methods for 1st stage compressor hubs, 3rd stage turbine disks, and 4th stage turbine disks. For reference, this proposed AD carries forward the requirements from AD 2005–18–02. Also for reference, parts that have an Engine Manual Inspection Task and/or Sub Task Number reference updated in the table in the compliance section of this AD, are identified by an asterisk (*) that precedes the part nomenclature.

Costs of Compliance

We estimate that this proposed AD would affect 1,143 JT8D–209, –217, –217A, –217C, and –219 turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 10 work-hours per engine to perform the proposed actions, and that the average labor rate is $85 per work-hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $971,550.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. *See* the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14242 (70 FR 52004, September 1, 2005) and by adding a new airworthiness directive to read as follows:

Pratt & Whitney: Docket No. FAA–2010–0594; Directorate Identifier 98–ANE–43–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by October 18, 2010.

Affected ADs

(b) This AD supersedes AD 2005–18–02, Amendment 39–14242.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D–209, –217, –217A, –217C, and –219 turbofan engines. These engines are installed on, but not limited to Boeing 727 and McDonnell Douglas MD–80 series airplanes.

Unsafe Condition

(d) This AD results from the need to require enhanced inspection of selected critical life-limited parts of JT8D–209, –217, –217A, –217C, and –219 turbofan engines. We are issuing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

Compliance

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

(f) Within the next 30 days after the effective date of this AD, (1) revise the Time Limits section (TLS) of the manufacturer's engine manual, part number 773128, as appropriate for PW JT8D–209, –217, –217A, –217C, and –219 turbofan engines, and (2) for air carriers, revise the approved mandatory inspections section of the continuous airworthiness maintenance program, by adding the following:

"Critical Life Limited Part Inspection

A. Inspection Requirements:

(1) This section contains the definitions for individual engine piece-parts and the inspection procedures, which are necessary, when these parts are removed from the engine.

(2) It is necessary to do the inspection procedures of the piece-parts in Paragraph B when:

(a) The part is removed from the engine and disassembled to the level specified in paragraph B and

(b) The part has accumulated more than 100 cycles since the last piece part inspection, provided that the part is not damaged or related to the cause of its removal from the engine.

(3) The inspections specified in this section do not replace or make unnecessary other recommended inspections for these parts or other parts.

B. Parts Requiring Inspection.

Note: Piece part is defined as any of the listed parts with all the blades removed.

Description	Section	Inspection No.
Hub (Disk), 1st Stage Compressor:		
* Hub Detail—All P/Ns	72–33–31	–03, –04, –05
* Hub Assembly—All P/Ns	72–33–31	–03, –04, –05
Disk, 13th Stage Compressor—All P/Ns	72–36–47	–02
HP Turbine, First Stage:		
Rotor Assembly—All P/Ns	72–52–02	–04
Disk—All P/Ns	72–52–02	–03
Disk, 2nd Stage Turbine—All P/Ns	72–53–16	–02
* Disk, 3rd Stage Turbine—All P/Ns	72–53–17	–02, –03
* Disk, 4th Stage Turbine—All P/Ns	72–53–18	–02, –03"

(g) The parts that have an Engine Manual Inspection Task and or Sub Task Number reference updated in the table of this AD, are identified by an asterisk (*) that precedes the part nomenclature.

(h) Except as provided in paragraph (i) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the TLS of the manufacturer's engine manual.

Alternative Methods of Compliance (AMOC)

(i) You must perform these mandatory inspections using the TLS of the manufacturer's engine manual unless you receive approval to use an AMOC under paragraph (j) of this AD. Section 43.16 of the Federal Aviation Regulations (14 CFR 43.16) may not be used to approve alternative methods of compliance or adjustments to the times in which these inspections must be performed.

(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.

Maintaining Records of the Mandatory Inspections

(k) You have met the requirements of this AD when you revise the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. For air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121), you have met the requirements of this AD when you modify your continuous airworthiness maintenance plan to reflect those changes. You do not need to record each piece-part inspection as compliance to this AD, but you must maintain records of those inspections according to the regulations governing your operation. For air carriers operating under part 121, you may use either the system established to comply with § 121.369 or an alternative accepted by your principal maintenance inspector if that alternative:

(1) Includes a method for preserving and retrieving the records of the inspections resulting from this AD; and

(2) Meets the requirements of § 121.369(c); and

(3) Maintains the records either indefinitely or until the work is repeated.

(l) These recordkeeping requirements apply only to the records used to document the mandatory inspections required as a result of revising the TLS of the manufacturer's engine manual as specified in paragraph (f) of this AD. These record keeping requirements do not alter or amend the record keeping requirements for any other AD or regulatory requirement.

Related Information

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

Issued in Burlington, Massachusetts, on August 10, 2010.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–20350 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0605; Airspace Docket No. 10–AGL–10]

Proposed Amendment of Class E Airspace; Kokomo, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Kokomo, IN. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Kokomo Municipal Airport. Minor adjustments to geographic coordinates also would be made. This action also would change the name of Logansport Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before October 4, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0605/Airspace Docket No. 10–AGL–10, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0605/Airspace Docket No. 10–AGL–10." The postcard will be date/time stamped and returned to the commenter.

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* **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 Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional Class E airspace extending upward from 700 feet above the surface for SIAPs at Kokomo Municipal Airport, Kokomo, IN. Controlled airspace is needed for the safety and management of IFR operations at the airport. Adjustments to the geographic coordinates for Logansport/Cass County Airport and Peru Municipal Airport also would be made in accordance with the FAA's National Aeronautical Navigation Services, as well as the name change of Logansport Municipal Airport to Logansport/Cass County Airport. The Grissom Air Reserve Base ILS Localizer Northeast and Southwest courses also would be listed with their geographic coordinates.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9T, dated 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 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 rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 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 regulation is within the scope of that authority as it would add additional controlled airspace at Kokomo Municipal Airport, Kokomo, IN.

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 FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

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

* * * * *

AGL IN E5 Kokomo, IN [Amended]

Kokomo Municipal Airport, IN
(Lat. 40°31′41″ N., long. 86°03′32″ W.)
Peru, Grissom Air Reserve Base, IN
(Lat. 40°38′53″ N., long. 86°09′08″ W.)
Grissom Air Reserve Base ILS Localizer Northeast
(Lat. 40°37′59″ N., long. 86°10′18″ W.)
Grissom Air Reserve Base ILS Localizer Southwest
(Lat. 40°39′56″ N., long. 86°07′47″ W.)
Logansport, Logansport/Cass County Airport, IN
(Lat. 40°42′41″ N., long. 86°22′22″ W.)
Peru, Peru Municipal Airport, IN
(Lat. 40°47′09″ N., long. 86°08′47″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Kokomo Municipal Airport, and within 4 miles each side of the 045° bearing from the airport extending from the 7-mile radius to 10.7 miles northeast of the airport, and within 4 miles each side of the 225° bearing from Kokomo Municipal Airport extending from the 7-mile radius to 10.9 miles southwest of the airport, and within a 7-mile radius of Grissom Air Reserve Base, and within 3.8 miles each side of the Grissom Air Reserve Base ILS Localizer Northeast course extending from the 7-mile radius to 14.5 miles northeast of Grissom Air Reserve Base and within 2 miles each side of the Grissom Air Reserve Base ILS Localizer Southwest course extending from the 7-mile radius to 14.5 miles southwest of Grissom Air Reserve Base and within a 7.7-mile radius of Logansport/Cass County Airport, and within a 6.3-mile radius of Peru Municipal Airport.

Issued in Fort Worth, TX, on August 3, 2010.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–20411 Filed 8–17–10; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0606; Airspace Docket No. 10–ACE–8]

Proposed Amendment of Class E Airspace; Kennett, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Kennett, MO. Decommissioning of the Kennett non-directional beacon (NDB) at Kennett Memorial Airport has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before October 4, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2010–0606/Airspace Docket No. 10–ACE–8, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0606/Airspace Docket No. 10–ACE–8." The postcard will be date/time stamped and returned to the commenter.

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* **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 Central Service Center, 2601 Meacham Blvd, Fort Worth, TX 76137.

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

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Kennett Memorial Airport, Kennett, MO. Airspace reconfiguration to within a 6.6-mile radius of the airport is necessary due to the decommissioning of the Kennett NDB and the cancellation of the NDB approach. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9T, dated 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 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 rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 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 regulation is within the scope of that authority as it would amend controlled airspace at Kennett Memorial Airport, Kennett, MO.

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 FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

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

* * * * *

ACE MO E5 Kennett, MO [Amended]

Kennett Memorial Airport, MO
(Lat. 36°13′33″ N., long. 90°02′12″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Kennett Memorial Airport.

Issued in Fort Worth, TX, on August 6, 2010.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2010–20404 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 20, and 151

RIN 3038–AC85

Federal Speculative Position Limits for Referenced Energy Contracts and Associated Regulations

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules; withdrawal.

SUMMARY: On January 26, 2010, the Commodity Futures Trading Commission ("CFTC" or "Commission") proposed to implement position limits for futures and option contracts based on a limited set of exempt commodities,[1] namely certain energy commodities ("Federal Speculative Position Limits for Referenced Energy Contracts and Associated Regulations," for ease of reference, herein referred to as the "Energy Proposal").[2] In accord with the significant amendments introduced to the Commodity Exchange Act of 1936 ("Act" or "CEA") by the recent enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"),[3] the Commission is withdrawing its Energy Proposal as it plans to issue a notice of rulemaking proposing position limits for regulated exempt commodity contracts, including energy commodity contracts, as directed by the Act.

FOR FURTHER INFORMATION CONTACT: Bruce Fekrat, Special Counsel, Office of the Director, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418–5578, facsimile number (202) 418–5527, e-mail *bfekrat@cftc.gov.*

SUPPLEMENTARY INFORMATION: On January 26, 2010, the Commission issued the Energy Proposal to establish CFTC-set position limits for four enumerated contracts—the New York Mercantile ("NYMEX") Henry Hub natural gas contract, the NYMEX Light Sweet crude oil contract, the NYMEX New York Harbor No. 2 heating oil contract, and the NYMEX New York Harbor gasoline blendstock (RBOB) contract—as well as for, with limited exceptions, any other contract that was exclusively or partially based on the above referenced contracts' commodities and delivery points. The Energy Proposal included, inter alia, provisions relating to exemptions for *bona fide* hedging transactions and certain swap dealer positions maintained to manage the risk of an unbalanced swaps book.

At that time, section 4a(a) of the Act authorized the Commission to establish position limits for contracts traded on or subject to the rules of a designated contract market or significant price discovery contracts traded on exempt commercial markets. The purpose of such limits, as stated in prior section 4a(a), was to eliminate or prevent excessive speculation causing sudden or unreasonable fluctuations or unwarranted changes in the price of a commodity. Section 4a(a) of the CEA, as amended by the Dodd-Frank Act, directs the Commission to set position limits for all regulated exempt and agricultural commodity derivatives. More specifically, amended section 4a(a)(2)(B) of the Act requires the Commission to establish limits for exempt and agricultural commodity derivatives within 180 and 270 days, respectively, of the Dodd-Frank Act's enactment date. In addition, amended section 4a(a) of the Act explicitly requires the implementation of aggregate position limits across certain derivatives positions established on designated contract markets, swap execution facilities, or foreign boards of trade, or through bilateral trading. Thus, the CFTC intends to publish a notice of rulemaking proposing Commission-set position limits and exemptions therefrom for such derivatives pursuant to section 4a(a) and other related provisions of the CEA, as amended by the Dodd-Frank Act. In doing so, the Commission intends to take account of the Energy Proposal and build on the substantive issues raised by the commenters thereon.

In light of the broadened scope and new requirements of the CEA, as amended by the Dodd-Frank Act, and amended section 4a(a) of the Act in particular, the Commission has determined to withdraw the pending Energy Proposal as it plans to issue a notice of rulemaking proposing position limits and exemptions therefrom for regulated exempt commodity derivatives, including energy derivatives, as directed by the Dodd-Frank Act.

Issued by the Commission this August 12, 2010, in Washington, DC.

David Stawick,

Secretary of the Commission.

[FR Doc. 2010–20428 Filed 8–17–10; 8:45 am]

BILLING CODE 6351–01–P

[1] Section 1a(14) of the Commodity Exchange Act, 7 U.S.C. 1a(14). An exempt commodity is defined as a commodity that is neither an excluded commodity, as that term is defined by CEA Section 1a(13), nor an agricultural commodity. Generally the definition encompasses energy commodities and metals.

[2] 75 FR 4133 (January 26, 2010).

[3] Public Law 111–203.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DoD–2010–HA–0071]

RIN 0720–AB40

TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2010; Expansion of Survivor Eligibility Under the TRICARE Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The Department is publishing this proposed rule to implement section 704 of the National Defense Authorization Act for Fiscal Year 2010 (NDAA for FY10). Specifically, that legislation expands the survivor eligibility under the TRICARE Dental Program (TDP). The legislation entitles a child or unmarried person placed in legal custody of a member or former member continuation of eligibility for the TDP. The period of continued eligibility for these dependents shall be the longer of the following periods beginning on the date of the member's death: Three years; the period ending on the date on which such dependent attains 21 years of age; or in the case of such dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates: The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary; or the date on which such dependent attains 23 years of age. This proposed rule does not expand the TDP eligibility of other eligible survivors.

Survivors, who meet the new eligibility requirements, will regain TDP eligibility as of the publishing of the final rule in the **Federal Register**. Retroactive payment of premiums or claims paid for dental treatment during the time of loss of TDP eligibility will

not be reimbursed to surviving dependents.

DATES: Written comments received at the address indicated below by October 18, 2010 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: CAPT Robert H. Mitton, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, telephone (703) 681–0039.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule expands the survivor eligibility under the TRICARE Dental Program (TDP). The legislation entitles a child or unmarried person placed in legal custody of a member or former member, as defined in 10 U.S.C. 1072(2), subparagraph (D) or (I), continuation of eligibility for the TDP. The period of continued eligibility for these dependents shall be the longer of the following periods beginning on the date of the member's death: (1) Three years; (2) the period ending on the date on which such dependent attains 21 years of age; or (3) in the case of such dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates: (a) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary; or (b) the date on which such dependent attains 23 years of age.

This proposed rule does not expand the TDP eligibility of other eligible survivors. Currently, all eligible survivors are entitled to continued TDP enrollment for up to three years from the date of the member's death. The proposed rule will maintain the government's payment of both the government and dependent's portion of the premium share during the period of continuous enrollment.

This proposed rule will amend the Code of Federal Regulations to allow the TDP to conform to the new statutory authority. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the final rule.

II. Regulatory Procedures

Executive Order 12866 and Regulatory Flexibility Act

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this proposed rule is not subject to any of these requirements.

Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Paperwork Reduction Act

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

Federalism

We have examined the impact(s) of the proposed rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.13 is amended by revising paragraph (c)(3)(ii)(E)(*2*) to read as follows:

§ 199.13 TRICARE dental program.

* * * * *

(c) * * *
(3) * * *
(ii) * * *
(E) * * *

(*2*) *Continuation of eligibility.* Eligible dependents of active duty members while on active duty for a period of more than 30 days and eligible dependents of members of the Ready Reserve (i.e., Selected Reserve or Individual Ready Reserve, as specified in 10 U.S.C. 10143 and 10144(b) respectively), shall be eligible for continued enrollment in the TDP, if, on the date of the death of the member, the dependent is enrolled in the TDP, or is not enrolled by reason of discontinuance of a former enrollment under paragraphs (c)(3)(ii)(E)(*4*)(*ii*) and (c)(3)(ii)(E)(*4*)(*iii*) of this section, or is not enrolled because the dependent was under the minimum age for enrollment at the time of the member's death, or is not qualified for enrollment because the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days but subsequently separates or is discharged from active duty. This continued enrollment is not contingent on the Selected Reserve or Individual Ready Reserve member's own enrollment in the TDP. During the period of continuous enrollment, the government will pay both the government and the beneficiary's portion of the premium share. This continued enrollment shall be up to (3) three years from the date of the member's death, except that, in the case of a dependent of the deceased who is described in 10 U.S.C. section 1072(2) by subparagraph (D) or (I), the period of

continued enrollment shall be the longer of the following periods beginning on the date of the member's death:

(*i*) Three years.

(*ii*) The period ending on the date on which such dependent attains 21 years of age.

(*iii*) In the case of such dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates: The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary; or the date on which such dependent attains 23 years of age.

* * * * *

Dated: August 10, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20392 Filed 8–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0705]

RIN 1625–AA00

Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, HI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes two temporary safety zones while the U.S. Navy Blue Angels Squadron conducts aerobatic performances over Kaneohe Bay, Oahu, Hawaii. These safety zones are necessary to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low flying, high powered jet aerobatics over open waters. Vessels desiring to transit through the zones can request permission by contacting the Honolulu Captain of the Port at telephone number 808–842–2600.

DATES: Comments and related material must be received by the Coast Guard on or before September 2, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0705 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808–842–2600, e-mail *Marcella.A.Granquist@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0705), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2010–0705" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–0705" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request

for one on or before 15 days after the date of publication in the **Federal Register** using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On July 20, 2010, Kaneohe Bay Air Show 2010 coordinators informed the U.S. Coast Guard of a State of Hawaii approved Air Show plan that includes an aerial performance "show box" extending beyond the Kane'ohe Bay Naval Defensive Sea Area as established by Executive Order No. 8681 of February 14, 1941. Within this "show box", the U.S. Navy Blue Angels Squadron will conduct aerobatic performances, exhibiting their aircraft's maximum performance capabilities, over Kaneohe Bay, Oahu, Hawaii during a 3-day period. Taking into account the hazards associated within this "show box" during the Squadron's high-powered multiple jet aircraft performances, and that Kaneohe Bay normally experiences heavy waterway traffic during the weekends, two safety zones for the portions of the "show box" that extend beyond the Kane'ohe Bay Naval Defensive Sea was determined to be appropriate by the Captain of the Port so as to ensure the safety of all watercraft and the general public during the Blue Angels' performances.

Discussion of Proposed Rule

In order to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low-flying, high-powered jet aerobatics over open waters, the Coast Guard is proposing to establish two temporary safety zones.

The first safety zone would extend approximately 100 yards southwest of the Kane'ohe Bay Naval Defensive Sea Area, bound by the following points: 21°28.00 N, 157°46.29 W; 21°28.00 N, 157°44.09 W; 21°27.05 N, 157°44.02 W; 21°27.10 N, 157°46.06 W thence along to the beginning point. The second safety zone would extend 300 yards northeast of the Sea Area, bounded by the following points: 21°26.31 N, 157° 46.47; 21°26.10 N, 157°47.07 W; and 21° 26.18 N, 157°47.28 W thence along to the beginning point. Both of these zones would extend from the surface of the water to the ocean floor.

The Coast Guard is proposing that this temporary regulation would be effective from 9 a.m. on September 24, 2010 through 7 p.m. local (HST) time during September 26, 2010. The actual enforcement of the zones would be done on a daily basis from 9 a.m. local (HST) time through 7 p.m. local (HST) time September 24–26, 2010.

During the times the safety zones would be enforced, vessel traffic would be prohibited from transiting the areas included in the safety zones. Vessels desiring to transit through the zones could request permission by contacting the Honolulu Captain of the Port at telephone number 808–842–2600.

Regulatory Analyses

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

Regulatory Planning and Review

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

This rule would not be significant as vessels could safely transit around the safety zone. Furthermore, vessels would be able to transit in the temporary safety zones with permission from the Honolulu Captain of the Port.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Kaneohe Bay, Oahu, Hawaii, from 9 a.m. on September 24, 2010 through 7 p.m. September 26, 2010. This rule will not have a significant effect on a substantial number of small entities for the following reasons: (1) This rule will only be in effect for a limited period of time; (2) Vessels will be able to transit around the proposed safety zones; and (3) Before the effective period, we would issue maritime advisories widely available to the Oahu maritime and tourist communities. Furthermore, vessels will be allowed to transit in and around the temporary safety zones in Kaneohe Bay if permission to enter is granted.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808–842–2600, e-mail *Marcella.A.Granquist@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or

more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a safety zone. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T14–210 to read as follows:

§ 165.T14–210 Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, Hawaii.

(a) *Location.* The following areas, consisting of all waters contained within an area of one box on the northeast side and one box on southwest side of the Kane'ohe Bay Naval Defensive Sea Area as established by Executive Order No. 8681 of February 14, 1941, in Kaneohe Bay, Oahu, Hawaii, are temporary safety zones. These safety zones extend from the surface of the water to the ocean floor. These coordinates are based upon the National Oceanic and Atmospheric Administration Coast Survey, Pacific Ocean, Oahu, Hawaii, chart 19359.

(1) The first safety zone extends approximately 100 yards southwest of the Kane'ohe Bay Naval Defensive Sea Area and is bounded by the following points: 21°28.00 N, 157°46.29 W; 21°28.00N, 157°44.09 W; 21°27.05 N, 157°44.02 W; 21°27.10 N, 157°46.06 W thence along to the beginning point.

(2) The second safety zone extends approximately 300 yards northeast of the Kane'ohe Bay Naval Defensive Sea Area and bounded by the following points: 21°26.31 N, 157°46.47; 21°26.10 N, 157°47.07 W.; and 21°26.18 N, 157°47.28 W. thence along to the beginning point.

(b) *Regulations.* (1) Entry into or remaining in the safety zones described in paragraph (a) of this section is prohibited unless authorized by the Honolulu Coast Guard Captain of the Port.

(2) Persons desiring to transit these safety zones may contact the Honolulu Captain of the Port on VHF channel 16 (156.800 MHz) or at telephone number 808–842–2600 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Effective period.* This rule is effective from 9 a.m. local (HST) time September 24, 2010 through 7 p.m. local (HST) time September 26, 2010. This rule will be enforced daily between the hours of 9 a.m. local (HST) time through 7 p.m. local (HST) time during September 24–26, 2010.

(d) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, no person or vessel may enter or remain in the zone except for support vessels/aircraft and support personnel, or other vessels authorized by the Captain of the Port or his designated representatives.

(e) *Penalties.* Vessels or persons violating this rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: August 4, 2010.

B.A. Compagnoni,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 2010–20364 Filed 8–17–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1066]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On September 8, 2009, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 74 FR 46047. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for York County, Maine (All Jurisdictions). Specifically, it addresses the following flooding sources: Atlantic Ocean, Bonny Eagle Pond, Cape Porpoise Harbor, Cleaves Cove, Coffin Brook, Coffin Brook Tributary 1, Driscoll Brook, Ferguson Brook, Goosefare Brook, Great East Lake, Jones Brook (backwater effects from Scarborough River), Keay Brook, Kennebunk River, Little Ossipee River, Little River, Little River (backwater effects from Scarborough River), Mill Brook (backwater effects from Scarborough River), Mousam River, Mulloy Brook, Piscataqua River, Portsmouth Harbor, Province Lake, Saco River, Salmon Falls River, Sampson Cove, Spruce Creek, Stump Pond, The Pool, Worster Brook, and Worster Brook Tributary 3.

DATES: Comments are to be submitted on or before November 16, 2010.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1066, to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *roy.e.wright@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) *roy.e.wright@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a). These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Corrections

In the proposed rule published at 74 FR 46047 in the September 8, 2009, issue of the **Federal Register,** FEMA published a table under the authority of 44 CFR 67.4. The table entitled "York County, Maine (All Jurisdictions)" addressed the following flooding sources: Atlantic Ocean, Cape Porpoise Harbor, Cleaves Cove, Coffin Brook, Coffin Brook Tributary 1, Driscoll Brook, Ferguson Brook, Goosefare Brook, Keay Brook, Kennebunk River, Little River, Mulloy Brook, Piscataqua River (Town of Kittery), Portsmouth Harbor, Saco River, Sampson Cove, Spruce Creek, The Pool, Worster Brook, and Worster Brook Tributary 3. That table contained inaccurate information as to the location of referenced elevations, effective and modified elevations in feet, or communities affected for the flooding sources "Little River" and "Piscataqua River." In addition, it did not include the following flooding sources: Bonny Eagle Pond, Great East Lake, Jones Brook (backwater effects from Scarborough River), Little Ossipee River, Little River (backwater effects from Scarborough River), Mill Brook (backwater effects from Scarborough River), Mousam River, Piscataqua River (Town of Eliot), Province Lake, Salmon Falls River, and Stump Pond. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
York County, Maine (All Jurisdictions)				
Atlantic Ocean	Along the shoreline, at the intersection of Great Hill Road and Sand Dollar Lane.	+11	+12	City of Biddeford, Town of Kennebunk, Town of Kennebunkport, Town of Kittery, Town of Ogunquit, Town of Old Orchard Beach, Town of Wells, Town of York.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Along the shoreline, approximately 230 feet east of the intersection of Ocean View Lane and Ontio Way.	+14	+33	
Bonny Eagle Pond	Entire shoreline within the Town of Buxton	None	+268	Town of Buxton.
Cape Porpoise Harbor	Along the shoreline, at the intersection of Paddy Creek Road and Paddy Creek Hill Road.	+8	+9	Town of Kennebunkport.
	Along the shoreline, approximately 330 feet east of the terminus of Harbor Drive.	+13	+17	
Cleaves Cove	Along the shoreline, approximately 400 feet from the intersection of Turbats Creek Road and Field Point Road.	None	+13	Town of Kennebunkport.
	Along the shoreline, at the terminus of Halcyon Drive	+13	+22	
Coffin Brook	Just upstream of the confluence with Worster Brook	None	+133	Town of Berwick.
	Approximately 1.63 mile upstream of the confluence with Worster Brook.	None	+254	
Coffin Brook Tributary 1	Just upstream of the confluence with Coffin Brook	None	+141	Town of Berwick.
	Just downstream of Cemetery Road	None	+320	
Driscoll Brook	Approximately 465 feet east of the intersection of State Route 236 and railroad.	None	+85	Town of Berwick, Town of South Berwick.
	Just downstream of Blackberry Hill Road	None	+159	
Ferguson Brook	Just upstream of the confluence with Worster Brook	None	+117	Town of Berwick.
	Just downstream of Cemetery Road	None	+326	
Goosefare Brook	Along the shoreline, at the intersection of Royal Street and Massachusetts Avenue.	+8	+9	Town of Old Orchard Beach.
	Along the shoreline, at the intersection of New Salt Road and Grand Avenue.	None	+15	
Great East Lake	Entire shoreline within the Town of Acton	None	+575	Town of Acton.
Jones Brook (backwater effects from Scarborough River).	From the Cumberland County boundary to approximately 0.7 mile upstream of the Cumberland County boundary.	+7	+9	Town of Old Orchard Beach.
Keay Brook	Just upstream of the confluence with the Salmon Falls River..	None	+186	Town of Berwick.
	Approximately 890 feet south of the terminus of Richardson Drive.	None	+250	
Kennebunk River	Approximately 340 feet south of the terminus of Old Boston Road.	None	+9	Town of Arundel.
Little Ossipee River	Approximately 0.6 mile upstream of Sand Pond Road	None	+287	Town of Hollis.
	Approximately 0.9 mile upstream of Sand Pond Road	None	+287	
Little River	Just upstream of the confluence with the Salmon Falls River.	None	+183	Town of Berwick, Town of North Berwick.
	Just upstream of the intersection of Little River Road and Dark Hollow Lane.	None	+249	
Little River (backwater effects from Scarborough River).	From the confluence with Mill Brook to approximately 1.4 mile upstream of the confluence with Mill Brook.	+7	+9	Town of Old Orchard Beach.
Mill Brook (backwater effects from Scarborough River).	From the confluence with Jones Brook to approximately 0.8 mile upstream of the confluence with Jones Brook.	+7	+9	Town of Old Orchard Beach.
Mousam River	Approximately 1,900 feet downstream of Main Street (U.S. Route 1).	None	+9	Town of Kennebunk.
	Approximately 1,000 feet upstream of Mill Street	None	+89	
Mulloy Brook	Just upstream of the confluence with Worster Brook	None	+142	Town of Berwick.
	Approximately 1.1 mile upstream of the confluence with Worster Brook.	None	+304	
Piscataqua River	Along the shoreline, approximately 270 feet south of the intersection of Langston Street and Prince Avenue.	+8	+9	Town of Kittery.
	Along the shoreline, approximately 560 feet west of the intersection of Langston Street and Prince Avenue.	+8	+14	
Piscataqua River	Just upstream of I–95, at the confluence with Spinney Creek.	+8	+9	Town of Eliot.
	Approximately 100 feet downstream of Leach Road	+8	+9	
Portsmouth Harbor	Along the shoreline, approximately 165 feet east of the intersection of Haley Road and Pepperrell Road.	+8	+9	Town of Kittery.
	Along the shoreline, approximately 390 feet east of the intersection of Bellamy Lane and Pepperrell Road.	+14	+22	
Province Lake	Entire shoreline within the Town of Parsonsfield	None	+481	Town of Parsonsfield.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Saco River	Along the shoreline, at the terminus of Crestwood Drive.	+8	+9	City of Biddeford.
	Along the shoreline, at the terminus of Reserved Lane.	+13	+16	
Salmon Falls River	Approximately 2.7 miles upstream of New Bridge Road, at the corporate limits.	None	+420	Town of Acton.
	Just downstream of State Route 109	None	+511	
Sampson Cove	Along the shoreline, approximately 1,200 feet east of the intersection of Marshall Point Road and Mills Road.	+8	+14	Town of Kennebunkport.
	Along the shoreline, approximately 720 feet east of the intersection of Fishers Lane and Agamenticus Avenue.	+15	+17	
Spruce Creek	Along the shoreline, approximately 920 feet north of the intersection of Whipple Road and Newson Avenue.	+8	+9	Town of Kittery.
	Along the shoreline, approximately 920 feet north of the intersection of Whipple Road and Newson Avenue.	+8	+13	
Stump Pond	Entire shoreline within the Town of Newfield.	None	+559	Town of Newfield.
The Pool	Along the shoreline, approximately 560 feet from the intersection of Days Landing and Dory Lane.	None	+9	City of Biddeford.
	Along the shoreline, approximately 490 feet from the intersection of Winter Harbor Lane and Bridge Road.	+8	+11	
Worster Brook	Just upstream of the confluence with the Salmon Falls River.	None	+76	Town of Berwick.
	Approximately 5.8 miles upstream of the confluence with the Salmon Falls River.	None	+228	
Worster Brook Tributary 3	Just upstream of the confluence with Worster Brook	None	+194	Town of Berwick.
	Just downstream of Thompson Hill Road	None	+310	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Biddeford
Maps are available for inspection at City Hall, 205 Main Street, Biddeford, ME 04005.

Town of Acton
Maps are available for inspection at 35 H Road, Acton, ME 04001.

Town of Arundel
Maps are available for inspection at the Town Hall, 468 Limerick Road, Arundel, ME 04046.

Town of Berwick
Maps are available for inspection at the Town Hall, 11 Sullivan Square, Berwick, ME 03901.

Town of Buxton
Maps are available for inspection at the Town Hall, 185 Portland Road, Buxton, ME 04093.

Town of Eliot
Maps are available for inspection at the Town Hall, 1333 State Road, Eliot, ME 03903.

Town of Hollis
Maps are available for inspection at the Town Hall, 34 Town Farm Road, Hollis, ME 04042.

Town of Kennebunk
Maps are available for inspection at the Town Hall, 1 Summer Street, Kennebunk, ME 04043.

Town of Kennebunkport
Maps are available for inspection at the Town Hall, 6 Elm Street, Kennebunkport, ME 04046.

Town of Kittery
Maps are available for inspection at the Town Hall, 200 Rogers Road, Kittery, ME 03904.

Town of Newfield
Maps are available for inspection at 637 Water Street, West Newfield, ME 04095.

Town of North Berwick

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Maps are available for inspection at the Town Hall, 21 Main Street, North Berwick, ME 03906.

Town of Ogunquit
Maps are available for inspection at the Town Hall, 23 School Street, Ogunquit, ME 03907.

Town of Old Orchard Beach
Maps are available for inspection at the Town Hall, 1 Portland Avenue, Old Orchard Beach, ME 04064.

Town of Parsonsfield
Maps are available for inspection at the Town Hall, 62 Federal Road, Parsonsfield, ME 04047.

Town of South Berwick
Maps are available for inspection at the Town Hall, 180 Main Street, South Berwick, ME 03908.

Town of Wells
Maps are available for inspection at the Town Hall, 208 Sanford Road, Wells, ME 04090.

Town of York
Maps are available for inspection at the Town Hall, 186 York Street, York, ME 03909.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: August 10, 2010.

Sandra K. Knight,

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

[FR Doc. 2010–20410 Filed 8–17–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2010–0112]

RIN 2127–AK56

Federal Motor Vehicle Safety Standards; Motorcoach Definition; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In accordance with NHTSA's 2007 Motorcoach Safety Plan and DOT's 2009 Departmental Motorcoach Safety Action Plan, NHTSA is issuing this NPRM to propose to amend the Federal motor vehicle safety standard (FMVSS) on occupant crash protection (FMVSS No. 208) to require lap/shoulder seat belts for each passenger seating position in new motorcoaches. This NPRM also proposes to require a lap/shoulder belt for the motorcoach and large school bus driver's seating positions, which currently are required to have either a lap or a lap/shoulder belt. Although motorcoach transportation overall is a safe form of transportation in the United States, several motorcoach crashes in 2008 have illustrated that motorcoach rollover crashes, while a relatively rare event, can cause a significant number of fatal or serious injuries in a single event. NHTSA's safety research on motorcoach seat belts, completed in 2009, shows that the installation of lap/shoulder belts on motorcoaches is practicable and effective. We believe that the seat belt assemblies that would be installed on motorcoach passenger seats pursuant to this rulemaking could reduce the risk of fatal injuries in rollover crashes by 77 percent, primarily by preventing occupant ejection in a crash.

DATES: Comments must be received on or before October 18, 2010. Proposed compliance date: 3 years after publication of a final rule.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document 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, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 am and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, Mr. David Sutula, Office of Crashworthiness Standards (*telephone:* 202–366–0247) (*fax:* 202–366–4921). Mr. Sutula's mailing address is National Highway Traffic Safety Administration, NVS–112, 1200 New Jersey Avenue, SE., Washington, DC 20590.

For legal issues, Ms. Dorothy Nakama, Office of the Chief Counsel (*telephone:* 202–366–2992) (*fax:* 202–366–3820). Ms. Nakama's mailing address is National Highway Traffic Safety Administration, NCC–112, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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I. Executive Summary

One of the guiding principles NHTSA considers in determining the priorities of our rulemaking projects is to ensure the protection of passengers in high-occupancy vehicles. In 2007, NHTSA published a comprehensive plan to research improvements to motorcoach safety.[1] This plan was developed in direct response to several National Transportation Safety Board (NTSB) recommendations and also to address several crashes that occurred since the recommendations were issued. NHTSA's motorcoach safety plan identified as our highest priorities four specific areas where we can most effectively address open NTSB recommendations over the next few years, and also improve motorcoach safety most expeditiously. The four priority areas are requiring seat belts (minimizing passenger and driver ejection from the motorcoach), improved roof strength, emergency evacuation, and fire safety.

This NPRM addresses the first priority area of minimizing passenger and driver ejection by proposing the installation of lap/shoulder belts for all motorcoach occupants. It results from an extensive test program completed in 2009 involving a full-scale frontal 48 kilometers per hour (km/h) (30 miles per hour (mph)) barrier crash test with instrumented test dummies representing a 50th percentile adult male, a 5th percentile adult female, and a 95th percentile adult male, sled testing under a range of belted and unbelted conditions, and seat anchorage strength testing. In the crash test, NHTSA analyzed the head accelerations (head injury criterion, HIC), neck injury (Nij) values, and other injury criteria measured by the test dummies, the kinematics of the dummies during the crash, and the structural integrity of the seats, floor and bus. The sled tests (crash simulations) were conducted using a representation of the crash pulse from the barrier test, and using a crash pulse from Economic Commission for Europe (ECE) Regulation 80. In the sled tests, we evaluated motorcoach seats without seat belts, motorcoach seats with lap/shoulder seat belts, and motorcoach seats with lap only belts. We tested the seats with different size dummies and in frontal and oblique (15°) impact configurations and with and without loading by unrestrained occupants in the rear seat. The results showed that lap/shoulder belts prevented critical head and neck injury values in almost all configurations using the crash pulse from the motorcoach barrier test.

Motorcoach transportation is an overall safe form of transportation. Over the ten year period between 1999 and 2008, there were 54 fatal motorcoach crashes resulting in 186 fatalities. During this period, on average, 16 fatalities have occurred annually to occupants of motorcoaches in crash and rollover events, with about 2 of these fatalities being drivers and 14 being passengers. However, while motorcoach transportation overall is safe, given the high-occupancy of motorcoaches, when serious crashes do occur of this vehicle type, they can cause a significant number of fatal or serious injuries during a single event, particularly when occupants are ejected.

The goal of this rulemaking is to reduce occupant ejections. Data from NHTSA's Fatal Analysis Reporting System (FARS) from 1999–2008 show that most (63 percent) fatal motorcoach crashes are single vehicle roadside events (*e.g.,* run off the road or hitting roadside objects) or rollovers. Ejections account for seventy-eight percent of the fatalities in motorcoach rollover crashes and twenty-eight percent of the fatalities in non-rollover crashes.

The risk of ejection can be reduced by seat belts, a simple and effective countermeasure. Seat belts are estimated to be 77 percent effective[2] in preventing fatal injuries in rollover crashes, primarily by preventing ejection.[3] This NPRM proposes to require passenger seating positions on new motorcoaches to be equipped with seat belts. As for the type of seat belt that we should require, we are proposing that lap/shoulder belts be installed.[4] Our test program showed that lap/shoulder belts were effective at preventing critical head and neck injury values, whereas dummies in lap only belts measured HIC and Nij values surpassing critical thresholds. The performance of the belts and anchorages would be assessed by testing to FMVSS Nos. 209 and 210.

The main proposals of this NPRM are to:

- Add a definition of "motorcoach" to 49 CFR Part 571.3;
- Amend FMVSS No. 208, "Occupant crash protection" (49 CFR 571.208) to:

—Require lap/shoulder belts at all passenger seating positions on new motorcoaches;

—Require lap/shoulder belts at all driver's seating positions on new motorcoaches and large school buses;[5] [6]

—Require lap/shoulder belt anchorage and attachment hardware at all locations for new motorcoaches to meet FMVSS No. 210, "Seat belt assembly anchorages," which specifies that they withstand a force of 13,345 N (3,000 pounds) applied simultaneously to the lap and torso portions of the belt assembly; and,

—Require the belt system to meet current provisions for seat belt adjustment and fit, so that the seat belts can accommodate a 6-year-old child to a 95th-percentile adult male, be lockable for use with a child restraint system, and be releasable at a single point and by a pushbutton action.[7]

[1] *See* Docket No. NHTSA–2007–28793, *NHTSA's Approach to Motorcoach Safety.*

[2] Estimated based on Kahane, "Fatality Reduction by Safety Belts for Front-Seat Occupants of Cars and Light Trucks," December 2000, Washington, DC, National Highway Traffic Safety Administration.

[3] We estimate that even at a minimum seat belt usage rate of only 21 percent, the proposed rule will remain cost effective for motorcoach passengers. Comments are requested regarding whether States would consider adopting mandatory belt use laws for motorcoach passengers. Also, should motorcoaches be equipped with "buckle up" signs reminding passengers to use their belts?

[4] FMVSS No. 209 uses the term "Type 2 seat belt assembly" to refer to a lap/shoulder belt system. As defined in that standard, a Type 2 seat belt assembly is "a combination of pelvic and upper torso restraints." In this preamble, we use the term "lap/shoulder" belt system rather than "Type 2 seat belt assembly" for plain language purposes. Documents may occasionally refer to lap/shoulder belts as 3-point belts. Under FMVSS No. 209, a "Type 1" seat belt assembly is "a lap belt for pelvic restraint." This preamble refers to Type 1 belts as "lap only belts."

[5] This is proposed for the driver's seating position of large school buses (buses with a gross vehicle weight rating (GVWR) of over 4,635 kilograms (kg) (10,000 pounds (lb)). Small school buses (GVWR less or equal to 4,536 kg) are already required to be equipped with lap/shoulder belts for the driver's seating position.

[6] This proposal addresses NTSB Safety Recommendation H–90–75 from 1990.

[7] FMVSS No. 209 (49 CFR 571.209) already applies to "seat belt assemblies for use in passenger

Continued

We estimate that installing lap/shoulder seat belts on new motorcoaches would save approximately 1 to 8 lives and prevent 144 to 794 injuries per year, depending on the usage of lap/shoulder belts in motorcoaches (*see* Table 1 below).[8] The total cost of adding belts and making structural changes to the motorcoach floor would be approximately $12,900 per vehicle, with the total cost being $25 million for the 2,000 new motorcoaches sold per year. Lifetime fuel costs due to an increased weight of the motorcoach would be an additional cost (estimated below).

The cost of installing lap/shoulder belts on new motorcoaches is estimated as follows (*see* Table 2 below). The incremental cost of adding passenger seats with lap/shoulder belts on a 54 passenger motorcoach is approximately $9,900. The cost to change the seat anchorages and to reinforce the floor is approximately $3,000. We estimate that total cost of adding belts, changing the anchorages and reinforcing the floor is approximately $12,900. The agency has also estimated increased costs in fuel usage. The increased fuel costs depend on added weight (estimated to be 161 lbs or 269 lbs [9]) and the discount rate used. NHTSA estimates the increased costs in fuel usage for added weight and discounts the additional fuel used over the lifetime of the motorcoach using a 3 percent and 7 percent discount rate. *See* the PRIA for more details.

The cost per equivalent life saved is estimated to be $1.3 million to $9.9 million (see Table 3 below). Annualized costs and benefits are provided in Table 4.

TABLE 1—ESTIMATED BENEFITS

Fatalities	1 to 8.
AIS 1 injuries (Minor)	92 to 506.
AIS 2–5 (Moderate to Severe)	52 to 288.
Total Non-fatal Injuries	144 to 794.

TABLE 2—ESTIMATED COSTS

[2008 Economics]

Per Vehicle	$12,900.
Total Fleet	$25.8 million.
Fuel Costs per Vehicle @ 3%.	$1,085 to $1,812.
Fuel Costs per Vehicle @ 7%.	$800 to $1,336.

TABLE 3—COST PER EQUIVALENT LIFE SAVED

Cost per Equivalent Life Saved:	
15% Belt usage	$7.4 to $9.9 mill.
83% Belt usage	$1.3 to $1.8 mill.
Breakeven Point in belt usage	24%.

TABLE 4—ANNUALIZED COSTS AND BENEFITS

[In millions of $2008 dollars]

	Annualized costs	Annualized benefits	Net benefits
3% Discount Rate	$28.0 to 29.4	$23.4–129.7	−$4.6 to 100.3.
7% Discount Rate	$27.4 to 28.5	$17.9–99.0	−$9.5 to 70.5.

We are not proposing at this time that used buses be required to be retrofitted with the lap/shoulder belt system. The service life of a motorcoach can be 20 years or longer. We estimate that the cost of retrofitting can vary substantially. We estimate it could cost between $6,000 [10]–$34,000 per vehicle to retrofit the vehicle with lap belts and with sufficient structure to meet today's proposal. We also estimate it could cost $40,000 per vehicle to retrofit it with lap/shoulder belts and reinforced structure so as to meet FMVSS No. 210 to support the loads during a crash.[11] The existing fleet size is estimated to be 29,325 motorcoaches. Hence, the fleet cost of retrofitting lap belts is estimated to range from $175,950,000 ($6,000 × 29,325) to $997,050,000 ($34,000 × 29,325), while the fleet cost of retrofitting lap/shoulder belts is estimated to be $1,173,000,000 ($40,000 × 29,325). These costs do not include increased remaining lifetime fuel costs incurred by adding weight to the motorcoach. Weight would vary depending upon the needed structural changes, and lifetime fuel cost would vary depending upon the age of motorcoaches that would be retrofitted.

Retrofitting used motorcoaches may not be structurally viable for many motorcoaches and may not be economically feasible for many motorcoach for-hire operators, many of which are small businesses. However, we have included a comprehensive set of questions about retrofit in this preamble. The answers to those questions will aid us in determining whether the agency's initial assessment of cost per equivalent lives saved is correct. The comments will help us determine whether we should issue a separate supplemental NPRM (SNPRM) to require retrofit. If we issue such an SNPRM, we will assess the impact of the proposed rule on small entities in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and will prepare and publish an initial regulatory flexibility analysis if appropriate.

II. Background

Each year, the motorcoach industry transports millions of people between cities, for long and short distance tours, school field trips, commuter, and

cars, multipurpose passenger vehicles, trucks, and buses." Since motorcoaches are a type of bus, any seat belt assembly installed on the vehicle must meet FMVSS No. 209.

[8] NHTSA has developed a Preliminary Regulatory Impact Analysis (PRIA) that discusses issues relating to the potential costs, benefits and other impacts of this regulatory action. The PRIA is available in the docket for this NPRM and may be obtained by downloading it or by contacting Docket Management at the address or telephone number provided at the beginning of this document. The PRIA assumes that the seat belt use rate on motorcoaches would be between 15 percent and the percent use in passenger vehicles, which was 83 percent in 2008. These annual benefits would accrue when all motorcoaches in the fleet have lap/shoulder belts.

[9] *See* PRIA for this NPRM. This estimate is based on preliminary results from a NHTSA contractor conducting cost/weight teardown studies of motorcoach seats. The weight added by 3-point lap/shoulder belts ranged from 5.96 to 9.95 pounds per 2-person seat. This is the weight only of the seat belt assembly itself and does not include changing the design of the seat, reinforcing the floor, walls or other areas of the motorcoach. The final cost and weight results from the study will be placed in the docket for this NPRM.

[10] This assumes that the motorcoach structure is lap belt-ready, and can accommodate the loads set forth in this proposal.

[11] It is noted that, as discussed elsewhere in this preamble, NHTSA has determined that the FMVSS No. 210 loads that this NPRM proposes for new motorcoach belt anchorages appear to be more stringent than ECE R.80 loads and more representative of the imparted loads measured at the seat belt anchorages in a motorcoach.

entertainment-related trips. According to the American Bus Association (ABA), there were approximately 3,400 motorcoach carriers in the United States and Canada in 2007.[12] These motorcoach carriers operated over 33,000 motorcoaches, they logged nearly 750 million passenger trips, and they traveled over 1.8 billion miles yearly. Approximately 3,100 of the carriers were chartered U.S. carriers that operated about 29,000 motorcoaches.

The services provided by motorcoaches in 2007 included charter services (46.4 percent of the miles driven), moving people between cities or between cities and rural areas (26.5 percent of the miles driven), transporting people between home and work (10.3 percent of the miles driven), and shuttle services to and from the airport (3.4 percent of the miles driven). In 2007, each motorcoach was driven an average of 56,000 miles. The majority of the motorcoach trips (65 percent) were made by children and senior citizens.

III. Safety Need

NHTSA's Fatality Analysis Reporting System (FARS) data files were examined to understand different aspects of motorcoach fatal crashes.[13] The FARS contains data on a census of fatal traffic crashes within the 50 States, the District of Columbia, and Puerto Rico. To be included in FARS, a crash must involve a motor vehicle traveling on a traffic way customarily open to the public, and must result in the death of an occupant of a vehicle or a non-occupant within 30 days of the crash. Motorcoaches are identified in FARS as "cross-country intercity buses" in the body type variable.

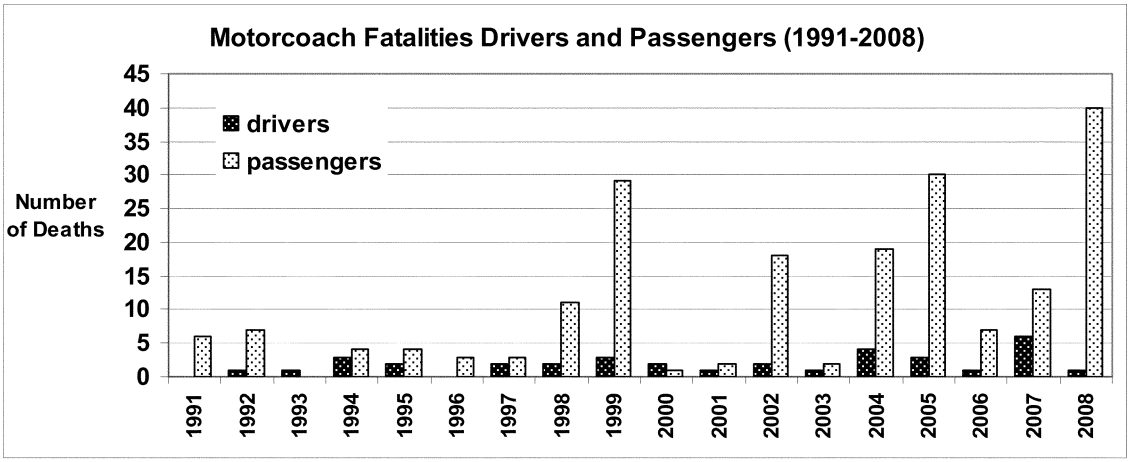

Figure 1: Motorcoach Driver and Passenger Fatalities (FARS 1991 – 2008)

FARS data of motorcoach driver and passenger fatalities for the period 1991–2008 show there were fewer than 10 motorcoach fatalities annually between 1991–1997 while there were more than 10 motorcoach fatalities for the years 1998, 1999, 2002, 2004, 2005, 2007, and 2008 (Figure 1).

The increased fatalities for the years 1999, 2004, and 2005 each resulted from a single event with a large number of fatalities. In 1999, the majority of fatalities resulted from a crash outside of New Orleans, Louisiana, in which a motorcoach struck a guardrail, jumped a ravine, and struck the embankment at a high speed. There was no rollover involved in this event. This crash resulted in 22 fatalities, all of which were passengers. The majority of fatalities in 2004 resulted from a crash in Arkansas, which involved a motorcoach hitting a highway signpost and subsequently rolling over. This crash resulted in 15 fatalities, including the driver. All 14 passengers who died in this crash were ejected; the driver was not ejected. In 2005, the majority of the fatalities resulted from a motorcoach fire in Wilmer, Texas. This bus was carrying evacuees from a nursing home during the Hurricane Rita evacuation. The 23 fatalities, all of which were passengers, resulted from a tire fire that subsequently carried into the passenger compartment of the bus. The 41 motorcoach passenger fatalities in 2008 were mainly a result of 3 events which included a rollover crash in Mexican Hat, Utah, where 9 passengers were killed, a crash in Sherman, Texas, where 17 passengers were killed, and a rollover crash near Williams, California, where 9 passengers were killed.

a. Rollovers and Ejection

Over the ten-year period between 1999 and 2008, there were 54 fatal motorcoach crashes resulting in 186 fatalities. During this period, on average, 16 fatalities have occurred annually to occupants of motorcoaches in crash and rollover events, with about 2 of these fatalities being drivers and 14 being passengers.

Figure 2 shows motorcoach crashes by most harmful event for the period 1999–2008. Multi-vehicle crashes and impacts with roadside objects account for 33 percent and 19 percent of all motorcoach fatal events, respectively, while motorcoach rollovers account for 44 percent of motorcoach fatal events.

[12] "Motorcoach Census 2008, A Benchmarking Study of the Size and Activity of the Motorcoach Industry in the United States and Canada in 2007." Paul Bourquin, Economist and Industry Analyst, December 18, 2008.

[13] The following discussion is also set forth in the DOT 2009 Motorcoach Action Plan, *http://www.nhtsa.gov/staticfiles/DOT/NHTSA/reports/HS811177.pdf.*

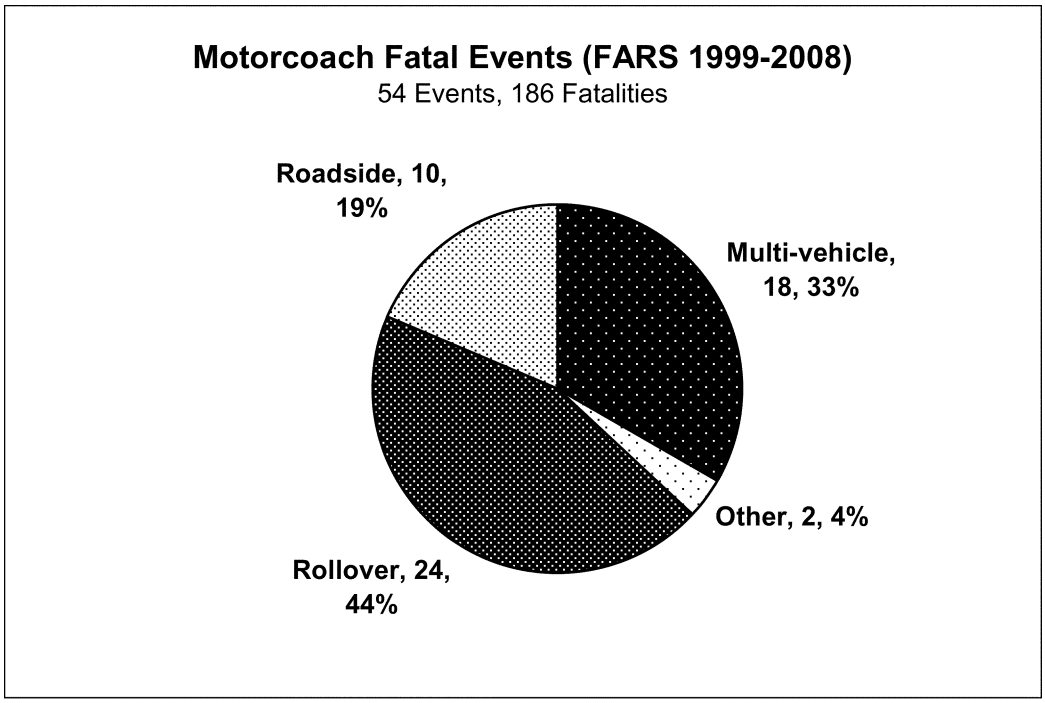

Figure 2: Fatal Motorcoach Events by Most Harmful Event

Figure 3 shows the motorcoach fatalities by most harmful event. Motorcoach rollover was the most common "most harmful event," accounting for 52 percent of the fatalities. Running off the road and striking a roadside object was the second most common event, leading to 23 percent of the fatalities.

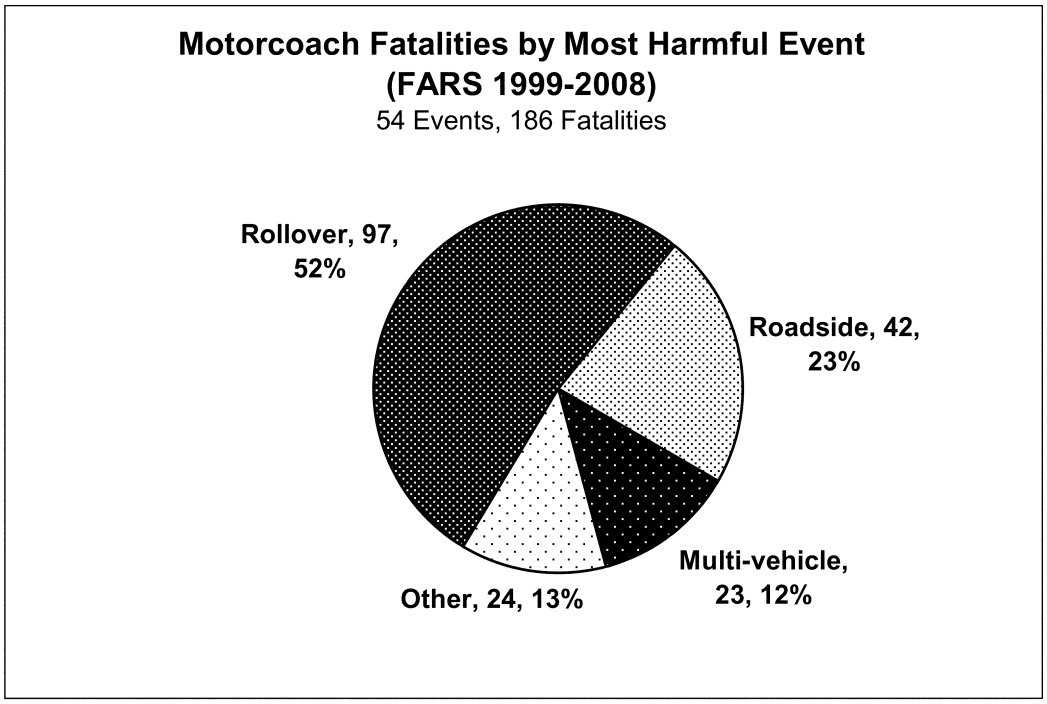

Figure 3: **Motorcoach Fatalities by Most Harmful Event**

Figure 4 shows driver and passenger fatality distribution by ejection mode and type of harmful event. The highest fatality count (74) corresponds to ejected motorcoach passengers due to a rollover event. Vehicles in road side

events (running off road, hitting roadside objects) account for 20 fatalities of non-ejected passengers. For the driver, the highest number of fatalities occurs in multi-vehicle crashes. Driver fatalities without ejections are more common than those with ejections. This is likely because the driver's seat is equipped with seat belts (lap or lap/shoulder belts) which help keep the driver in the seat.

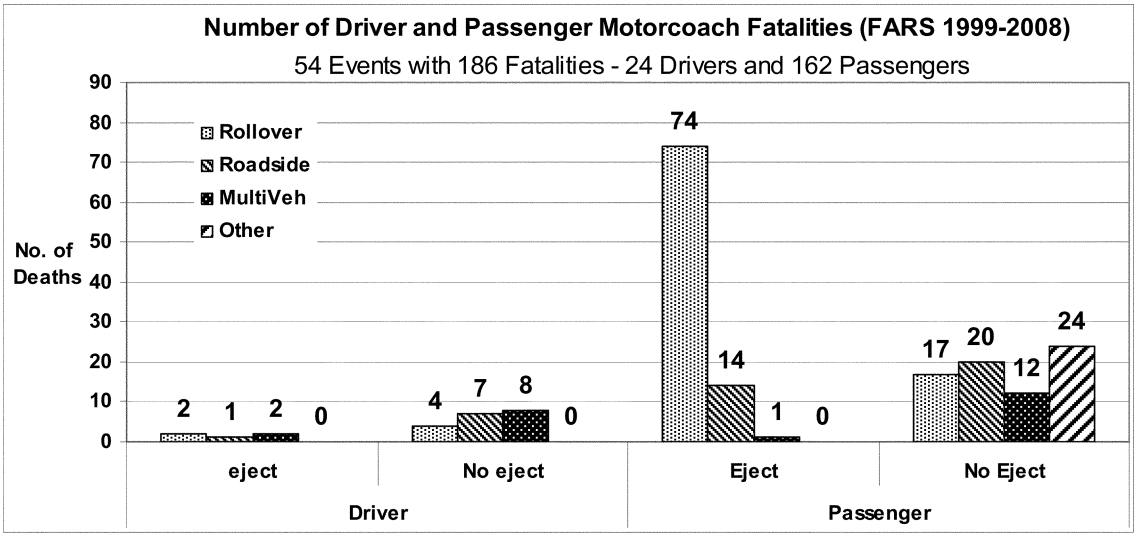

Figure 4: Driver and Passenger Fatalities by Ejection mode and Most Harmful Event

Figure 5 shows distribution of fatalities in motorcoach rollover crashes. For the ten year period from 1999 to 2008, there were 24 fatal motorcoach rollover events resulting in 97 fatalities. In these rollover events, 76 percent of the fatalities were motorcoach passengers who were ejected. Two drivers (2 percent) involved in rollover crashes were ejected.

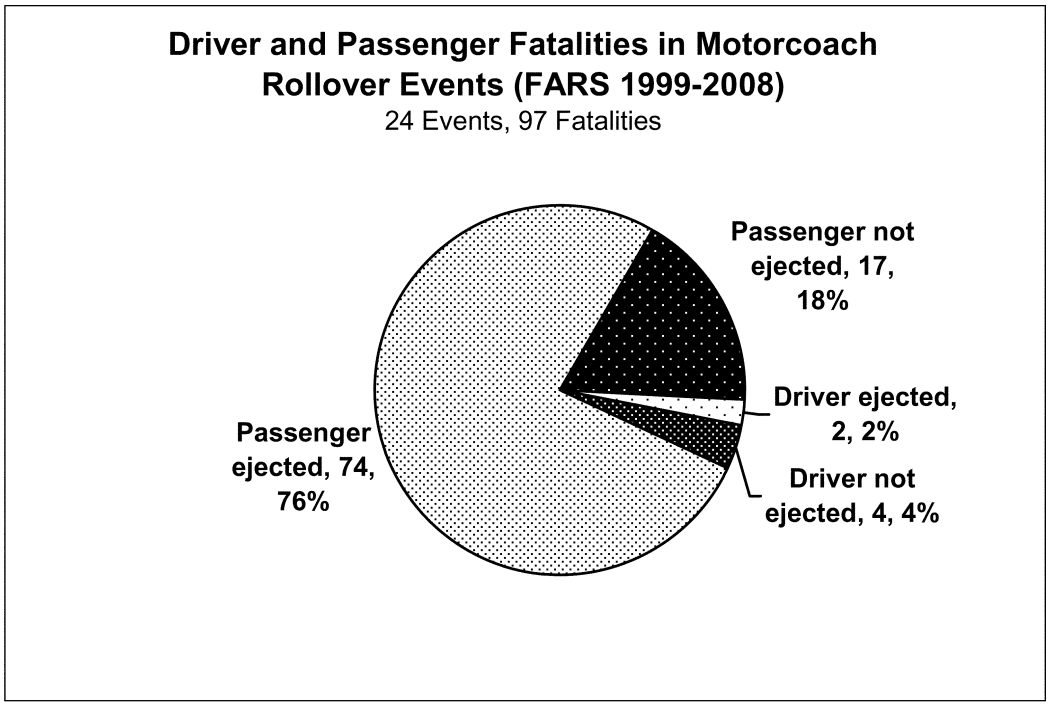

Figure 5: Distribution of driver and passenger fatalities in rollover events

Figure 6 shows the distribution of driver and passenger fatalities in motorcoach non-rollover events by ejection status. Among non-rollover events, 2 events (coded as "other" in Figure 2) were motorcoach fires that

resulted in 24 passenger fatalities. These 24 fatalities were not considered in the counts of fatalities in non-rollover crashes. Therefore, there were 28 non-rollover motorcoach crashes (excluding the 2 fire events) that resulted in 65 driver and passenger fatalities. In these non-rollover events, the percentage of passenger fatalities as a result of ejection is 23 percent, which is a significantly lower proportion than that observed in rollover events.

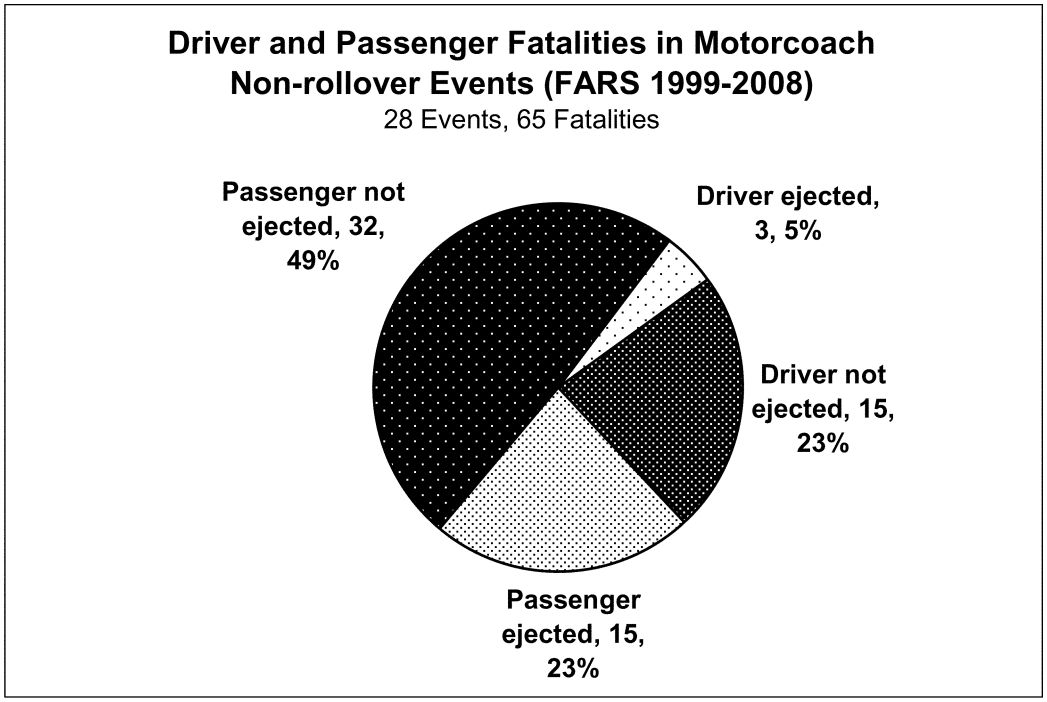

Figure 6: **Distribution Of Motorcoach Driver And Passenger Fatalities In Non-Rollover Crashes (Excluding Fire Events) By Ejection Status**

b. Motorcoach Crash Backgrounds

The following are summarized descriptions of the motorcoach crashes occurring in 1999, 2004, and 2008, and a rollover crash in 2009.

New Orleans, Louisiana

On May 9, 1999, a motorcoach carrying 44 occupants departed the right side of Interstate 610 outside of New Orleans, Louisiana. The motorcoach crossed the shoulder and went onto the grassy side slope alongside the shoulder. The motorcoach continued forward, struck the terminal end of a guardrail, traveled through a chain-link fence, vaulted over a paved golf cart path, and collided with the far side of a dirt embankment before coming to rest. There were 9 ejections, 22 fatalities and 16 serious injuries. The NTSB report found that use of three-point seat belts would have helped minimize the injuries sustained by the occupants.

Turrell, Arkansas

On October 9, 2004, a 47-passenger motorcoach was southbound on Interstate 55 (I–55) near Turrell, Arkansas, transporting 29 passengers to a casino in Tunica, Mississippi. At the exit interchange, the motorcoach veered to the right and entered the grassy area between the exit ramp and the entrance ramp and rolled over. The rollover and partial detachment of the roof resulted in the ejection of all 30 occupants. The motorcoach driver was not wearing his seat belt. In total, 14 passengers and the driver were killed; 6 of the fatally injured occupants had been trapped under the roof. Thirteen passengers were seriously injured, one of whom had been trapped under the roof; and two passengers received minor injuries.

Mexican Hat, Utah

On January 2, 2008, a 56-passenger motorcoach with a driver and 52 passengers on board was descending a 5.6-percent grade leading to a curve to the left, on U.S. Route 163 near Mexican Hat, Utah. After entering the curve, the motorcoach departed the right side of the roadway at a shallow angle, striking the guardrail with the right-rear wheel and lower coach body. The motorcoach rotated in a counterclockwise direction as it descended an embankment, overturned, struck several rocks in a drainage ditch bed at the bottom of the embankment, and came to rest on its wheels. During the 360-degree rollover sequence, the roof of the motorcoach separated from the body, and 50 of the 53 occupants were ejected. Nine passengers were fatally injured, and 43 passengers and the driver received minor to serious injuries. The NTSB found that, among other things, the absence of an adequate motorcoach occupant protection system contributed to the crash's severity.

Sherman, Texas

On August 8, 2008, a motorcoach carrying 54 passengers traveling on U.S. 75 near Sherman, Texas departed the right side of the roadway and smashed into a guard rail on a bridge about 15 feet above a creek. The motorcoach then rolled onto its side, killing 17 people and injuring 38 of the 54 passengers. According to the NTSB investigation,[14] a blown right front tire caused the bus to smash into the guard rail. The bus came to a rest on its right side, partly on the northbound lane of the freeway and partly on the grass. The NTSB found that the lack of an adequate occupant protection system contributed to the severity of the passenger injuries.

[14] *http://www.ntsb.gov/Publictn/2009/HAR0902.htm.*

Williams, California

On October 5, 2008, a motorcoach heading from Sacramento to a rural Northern California casino flipped and rolled into a ditch, killing 10 people and injuring more than 30 others. According to a media report,[15] 30 to 38 people suffered critical injuries, while the rest of the passengers received moderate to minor injuries. About a dozen were ejected from the motorcoach. The NTSB has not completed its investigation of this crash.

Dolan Springs, Arizona

On January 30, 2009, a 29-passenger tour bus returning from a visit to the Grand Canyon overturned on a highway near the Hoover Dam, killing seven occupants and injuring 10 others. The bus, occupied by the driver and 16 passengers, was traveling north on U.S. 93 when it moved left out of its lane. The driver steered sharply back to the right then overcorrected to the left across the median. The bus rolled 1.25 times before stopping. During the rollover, 15 of the 17 occupants were fully or partially ejected. The NTSB determined that the bus driver was distracted by the driver's side door, causing the vehicle to drift leftward, which triggered the subsequent accident sequence.

c. NTSB Recommendations

The following NTSB recommendations pertain to this NPRM. They relate to seat belts on motorcoaches or to the seat anchorages.

H–90–75, H–99–47, H–99–48, H–05–01

On August 22, 1990, the NTSB recommended that NHTSA mandate lap/shoulder belts for the driver position in all buses. This recommendation was based on a school bus crash in Alton, Texas. The Safety Board stated that it was unable to determine if a lap/shoulder belt would have prevented the minor injury [16] sustained by the driver; however, it believed that all buses should have lap/shoulder belts installed.

- H–90–75: Revise Federal Motor Vehicle Safety Standard 208, Occupant Crash Protection, to include a requirement that lap shoulder belt systems for the driver position be installed in all newly manufactured buses, including city, intercity, small, and large. (Class II, Priority Action).

The following two safety recommendations were issued in conjunction with a 1999 NTSB Highway Special Investigation Report.[17] NTSB initiated this special investigation to determine whether additional measures should be taken to better protect bus occupants. It examined motorcoach crashworthiness issues through the analysis of 40 bus crashes and through information gathered at NTSB's August 12, 1998 public meeting on bus crashworthiness. Only the safety recommendations that deal with passenger crash protection in motorcoaches are included below.

- H–99–47 ("Most Wanted"): In 2 years, develop performance standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers.
- H–99–48: Once pertinent standards have been developed for motorcoach occupant protection systems, require newly manufactured motorcoaches to have an occupant crash protection system that meets the newly developed performance standards and retains passengers, including those in child safety restraint systems, within the seating compartment throughout the accident sequence for all accident scenarios.

The next safety recommendation resulted from an October 13, 2003 crash outside of Tallulah, Louisiana. Eight motorcoach passengers sustained fatal injuries. The driver and six of the fourteen passengers received serious injuries. Failure of the motorcoach seat anchorages contributed to the severity of the injuries.

- H–05–01: Develop performance standards for passenger seat anchorages in motorcoaches.

Response to H–90–75, H–99–47, H–99–48, H–05–01

Today's NPRM addresses the above NTSB recommendations. It should be noted that at the time the NTSB recommendations were issued, there were no crash test data or countermeasure studies available. Today, the testing NHTSA conducted as part of our 2007 Motorcoach Safety Plan provides extensive data upon which the agency has assessed the practicability of installing lap/shoulder belt systems on motorcoaches and the potential effectiveness of the belts at passenger seating positions.

Today's NPRM addresses H–90–75, which recommended that we amend FMVSS No. 208 to require that lap/shoulder belt systems for the driver position be installed in all newly manufactured buses. We explain in a later section of this preamble that we are proposing a lap/shoulder belt requirement for the driver's position of motorcoaches and of school buses. Comments are requested on whether the requirement should apply to other types of buses (*e.g.,* transit buses), and the extent to which the shoulder belt portion of the belt system is already voluntarily installed in buses as a class.

Today's NPRM responds to H–99–47 and H–99–48, which requested us to develop performance standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers, and apply those standards to new motorcoaches. Today's NPRM would require lap/shoulder belts at each passenger seating position. In the NHTSA motorcoach test program that was conducted as part of the agency's motorcoach safety plan, lap/shoulder belts were found to prevent elevated head and neck injury values and provided enhanced occupant protection compared to lap belts.

We are applying the effectiveness of lap/shoulder belts in rear outboard seating positions of passenger cars as a proxy measure for the effectiveness of lap/shoulder belts in motorcoaches, since we have no experience with lap/shoulder belts in motorcoaches in our crash data. The lap/shoulder belt effectiveness estimates NHTSA is using for motorcoaches for fatalities is 29 percent in frontal crashes, 42 percent in side crashes, and 77 percent in rollovers; for injuries of AIS 2–5 severity level, it is 34 percent in frontal crashes, 47 percent in side crashes, and 82 percent in rollovers; and for all AIS 1 injuries, it is 10 percent.

Further, this NPRM would require the lap/shoulder belts on motorcoach passenger seating positions to meet FMVSS No. 208's "lockability" requirement (S7.1.1.5, 49 CFR 571.208) that currently applies to vehicles with a gross vehicle weight rating (GVWR) of 4,635 kg or less (10,000 pounds (lb) or less). The requirement is for the lap belt to be lockable so as to secure child restraint systems tightly, without the need to attach a clip or any other device to the vehicle's seat belt webbing. Child restraint systems are currently required to be capable of being installed on a vehicle seat using the vehicle's lap belt (49 CFR 571.213). This NPRM would thus ensure that child restraints would

[15] *http://www.kcra.com/news/17630435/detail.html.*

[16] The NTSB stated, "The school bus was not equipped with a lap shoulder belt for the driver. The Safety Board is unable to determine if this type of restraint system, because of the low speed of the collision, would have prevented the minor injury sustained by the driver. However, the Safety Board believes that lap shoulder belts are beneficial to drivers in higher speed accidents, and, therefore, school buses should be equipped with lap shoulder belts at the driver position."

[17] National Transportation Safety Board, 1999, *Bus Crashworthiness Issues*, Highway Special Investigation Report NTSB/SIR–99/04, Washington, DC.

be capable of being retained within the seating compartment of a passenger seating position in a motorcoach.

This NPRM also addresses H–05–01, which recommended that NHTSA develop performance standards for passenger seat anchorages in motorcoaches. This NPRM proposes that the seat belt anchorages, both torso and lap, be required to be integrated into the seat structure. NHTSA proposes such integration because if we do not, we are concerned that some manufacturers could incorporate some seat belt anchorages into the motorcoach floor, sidewall, or roof, which could potentially obstruct passengers during emergency egress. This NPRM also proposes that the seat belt anchorages on motorcoaches must meet the anchorage strength requirements for lap/shoulder belts in FMVSS No. 210. Those existing strength requirements specify that each lap/shoulder belt be tested with a load of 13,344 Newtons (N) (3,000 pounds) applied simultaneously to each belt loop. This proposal is based on test data from NHTSA's motorcoach safety research program. We believe that some motorcoach manufacturers may have to reinforce the passenger seat anchorages and the floor structure to withstand the loads from the FMVSS No. 210 test.

New June 2010 NTSB Recommendations

On June 22, 2010, NTSB issued recommendations to NHTSA resulting from NTSB's investigation of the 2009 Dolan Springs, AZ crash. The recommendations include ones to NHTSA to require new commercial vehicles exceeding 4,536 kg (10,000 lb) to be outfitted with lane departure warning systems, stability control systems, and data recording systems, and meet requirements for overhead luggage racks. NTSB also recommends that NHTSA develop regulatory "classifications and definitions for all bus body types," and include all buses above 10,000 lb, other than school buses, in rulemaking on occupant protection, roof strength and window glazing. *http://www.ntsb.gov/Publictn/2010/HAR1001.htm.*

NHTSA is in the process of evaluating the recommendations and will be responding to NTSB at a future time. However, this NPRM provides an opportunity to consider the NTSB recommendation to include all buses above 4,536 kg (10,000 lb) GVWR in this occupant protection rulemaking.

In this NPRM, NHTSA is proposing a definition of "motorcoach" for purposes of determining the applicability of FMVSS requirements that would specially apply to the vehicle type. Motorcoaches are already considered a type of "bus" to which the "bus" FMVSSs apply. As discussed in the agency's 2007 Motorcoach Safety Plan,[18] NHTSA is developing motor vehicle safety standards for motorcoaches to address unique safety risks posed by the high-occupancy vehicles that do not appear to be currently or sufficiently addressed by the bus FMVSSs. These risks include the risks of ejection, prolonged emergency egress from the vehicles, and structural vulnerability to torsional loading in a rollover event.

We have examined accident data and have been able to identify vehicle attributes nearly universally common to vehicles involved in motorcoach crashes over the last 10 years. We have proposed a definition of a "motorcoach" that incorporates these attributes to ensure that the FMVSS requirements for motorcoaches meet the need for motor vehicle safety [19] and are appropriate for that vehicle type.[20] Our proposed definition, discussed in Section VI of this preamble, uses a GVWR of 11,793 kg (26,000 lb) or more to define the "motorcoach" category. The NTSB recommends using a GVWR of 4,536 kg (10,000 lb) or more instead; in NTSB's view all buses (except school buses) with a GVWR of 4,536 kg (10,000 lb) or more should be subject to the FMVSSs under development for motorcoaches, including the requirements proposed today for passenger seat belts.

We are requesting comment on today's proposed motorcoach definition, including the aspect of the definition that would set the GVWR criterion at 11,793 kg (26,000 lb) or more. This issue is discussed in Section VI of this preamble. The agency seeks data (e.g., accident data and cost data) supporting commenters' views as to whether the proposed definition should be expanded to include more vehicles or narrowed to exclude vehicles that are included in the proposed definition.

IV. Motorcoach Safety Initiatives

a. NHTSA's 2007 Motorcoach Safety Plan

In 2002, NHTSA held a public meeting [21] to discuss potential areas for motorcoach safety improvement, and sought information from motorcoach manufacturers, users, and other interested parties, including the public, on improving motorcoach passenger crash protection regulations. The meeting was widely attended by representatives from the motorcoach manufacturing industry, the motorcoach transportation community, consumer advocacy groups, and private citizens. From that meeting, NHTSA determined that although motorcoaches show extremely low injury and fatality rates from crashes, ejection of passengers was the biggest safety concern.

This public meeting led to a joint research program between NHTSA and Transport Canada to investigate improvements in ejection protection through the use of advanced glazing.[22] Although this study developed a realistic impact condition for window glazing tests, it was determined that considerable further research would be needed prior to development of safety regulations.

To focus the agency's efforts on safety initiatives that could be accomplished in a practical timeframe, NHTSA undertook a comprehensive review of motorcoach safety issues and the course of action that the agency could pursue to most expeditiously address them. The agency considered various prevention, mitigation, and evacuation approaches in developing the course of action. Many considerations were factored into determining the priorities, including: cost and duration of testing, development, and analysis required; likelihood that the effort would lead to the desired and successful conclusion; target population and possible benefits that might be realized; and anticipated cost of implementing the ensuing requirements into the motorcoach fleet.

The result was NHTSA's 2007 Motorcoach safety plan, *NHTSA's Approach to Motorcoach Safety, supra,* in which we identified the following areas as the highest priorities for possible near term regulatory action to enhance motorcoach safety: passenger ejection; roof strength; fire safety; and emergency egress.

For passenger ejection, we pursued the incorporation of seat belts as the most effective and expeditious way to mitigate ejection. To evaluate the effectiveness of seat belts in motorcoaches, NHTSA undertook a comprehensive test program (discussed in the next section, below). The agency has completed testing, has analyzed the

[18] "NHTSA's Approach to Motorcoach Safety," Docket No. NHTSA–2007–28793, *supra.*

[19] *See* 49 U.S.C. 30111(a).

[20] *See* 49 U.S.C. 30111(b)(3).

[21] *See* Docket No. NHTSA–2002–11876.

[22] Subsequent joint research between NHTSA and Transport Canada used computer simulation to determine the forces on windows and develop a rudimentary procedure to test the effectiveness of glazing materials towards prevention of passenger ejections. See Docket No. NHTSA–2002–11876–15, *Motorcoach Glazing Retention Test Development for Occupant Impact During a Rollover*, August 2006.

data provided by the program and has examined the costs, benefits, practicability, and other considerations of various considered rulemaking approaches. Today's proposal commences the agency's implementation of regulatory action to mitigate passenger ejection in motorcoach crashes.

b. 2009 Departmental Task Force Action Plan

On April 30, 2009, Transportation Secretary Ray LaHood announced a full Departmental review of motorcoach safety. The findings from this review resulted in a Departmental Motorcoach Safety Action Plan, which was released November 16, 2009 (*http://www.nhtsa.gov/staticfiles/DOT/NHTSA/reports/HS811177.pdf*). The plan outlined the additional steps needed to improve motorcoach safety. DOT agencies helping create the Action Plan include NHTSA, the Federal Motor Carrier Safety Administration (FMCSA), the Federal Highway Administration and the Pipeline and Hazardous Materials Safety Administration. The review also considered outstanding recommendations to DOT from the NTSB.

The plan described an integrated DOT strategy to enhance motorcoach safety. Accident data show that driver fatigue, vehicle rollover, occupant ejection, and operator maintenance issues contribute to the majority of motorcoach crashes, fatalities, and injuries. From this, DOT developed an integrated strategy addressing a range of issues. These include driver errors resulting from fatigue, distraction, medical condition, and experience; crash avoidance technologies; vehicle maintenance and safety; carrier compliance; and measures to protect occupants in the event of a crash such as seat belts, roof strength, fire safety, and emergency egress. DOT expects this strategy to result in a reduction in the number of motorcoach crashes and fatalities and injuries resulting from those crashes.

Today's NPRM implements the initiative to improve occupant protection in the event of a crash by proposing the installation of seat belts for passengers. In addition, NHTSA is actively continuing its work evaluating and developing strategies on improving roof strength, fire safety, emergency egress, and other areas.

V. NHTSA Research Results

a. Overview

Our research program evaluating the performance of lap and lap/shoulder belts on motorcoach passenger seats consisted of several stages. In the first stage of the program, we conducted a full scale frontal 48 km/h (30 mph) barrier crash test of a 45-foot long, 2000 Model Year (MY) MCI 102EL3 Renaissance motorcoach (passenger capacity of 54 passenger seats). In the second stage, we conducted sled tests (crash simulations) of motorcoach seats with various test dummies under a range of belted and unbelted conditions, with and without loading from unbelted rear occupants, using a representation of the crash pulse from the barrier test, and using a crash pulse from ECE Regulation 80 (ECE R.80).[23] In the sled tests, we tested the seats with different size dummies and in frontal and oblique (15°) impact configurations. In the third stage, we evaluated different methods of assessing the strength of the seat belts and anchorages to determine how the performance of the seat belt system should be assessed. Seat belt anchorages currently are tested in a static pull test under FMVSS No. 210, "Seat belt assembly anchorages." In developing a performance standard for lap/shoulder belts, the agency considered the seat belt assembly anchorage requirements of FMVSS No. 210, those of ECE R.80 Amendment 1 (which specifies two test methods), as well as two other methods derived from the VRTC sled test data.

The results of the first and second stages of the test program are summarized below. The third stage of the program is summarized in this document in the section proposing requirements for seat and seat belt anchorage performance (section VI.d). NHTSA has prepared a detailed report discussing the motorcoach seat belt research program. A copy of this report can be found in the docket.

b. Stage 1: Full Scale Motorcoach Crash Test

The primary objective of the motorcoach crash test was to simulate a severe crash condition that would produce realistic, yet high loads through the seat belt and seat anchorages. Another objective was to obtain the deceleration profile (crash pulse) for use in simulated sled tests. Since there have been motorcoach crashes into rigid appurtenances along the roadway at highway speeds, NHTSA decided to perform a full frontal crash test at 48 km/h (30 mph) into a rigid barrier because this speed has been shown to impart enough energy to properly assess crash protection and provide a thorough and repeatable assessment of the restraint system tested (see 49 CFR 571.208).

In December 2007, at NHTSA's Vehicle Research and Test Center (VRTC), we crash tested the MY 2000 MCI motorcoach at 48 km/h (30 mph). Twenty two test dummies were used during the test to generate preliminary data on injury risk in various seat types and restraint conditions. Test dummies included: the 5th percentile female Hybrid III dummy (3 dummies), the 50th percentile male Hybrid III dummy (17 dummies), and the 95th percentile male Hybrid III dummy (2 dummies). The dummies were seated in an upright configuration and were either restrained by a lap/shoulder belt, a lap belt, or were unbelted.

The crash test resulted in a peak deceleration (crash pulse) of 13 *g*[24] at 125 milliseconds (msec). This crash pulse is called the "VRTC pulse."[25] The restraint performance of several seating types and dummy seating configurations were examined during the crash test.

Observations from the crash test indicated that all belted (restrained by lap belts or lap/shoulder belts) dummies remained securely fastened in their seats. The unbelted dummies did not stay within the seating row in which they were placed prior to the crash test, and came to rest in the aisle, on the floor, or in the seating row directly in front. The unbelted dummies seated next to the aisle ended up on the floor in the aisle.

For most configurations, the dummies did not exhibit high femur or chest loading.[26] The lap belted dummies and some of the unbelted dummies exhibited elevated head and neck injury measures. However, the unbelted dummies were typically ejected from their seats. The lap/shoulder belted dummies exhibited the lowest injury measures and improved kinematics, with low head and neck injury measures and little movement outside the seating row.

c. Stage 2: Frontal Sled Tests

Twenty sled tests using various sizes of test dummies were then conducted to further study the performance of various seating system configurations (*i.e.,* unbelted, lap belts, and lap/shoulder

[23] UN ECE Regulation No. 80, "Seats of Large Passenger Vehicles and of These Vehicles with Regard to the Strength of the Seats and Their Anchorages," applies to motorcoaches with occupant seating locations for 8 or more passengers and vehicle weights in excess of 5 metric tons. The standard requires seat belts to be installed at all occupant locations, and specifies the performance requirements for both the seat belts and anchorages.

[24] Data filtered to SAE J211 Class 60.

[25] Data filtered to 30 Hz to match the response of the test sled metering pin.

[26] In one case, the 5th percentile female dummy exhibited elevated femur loading.

belts) available for use on motorcoaches for different-sized occupants. The goal of the sled tests was to analyze the dummy injury measures to gain a better understanding of the effectiveness of the countermeasures, and to directly measure seat and seat belt loading that could not be assessed in the full scale crash test. The sled tests were also used to establish data for comparison with international standards. The sled tests were engineered to replicate the deceleration time history of the motorcoach full-scale frontal impact crash test performed at VRTC (*i.e.,* the VRTC pulse). In addition to injury measures, we analyzed dummy kinematics to identify the important factors contributing to the type, mechanism, and potential severity of any resulting injury.

Three types of seats were used in the sled tests. The first type was considered "baseline" seats, which did not have seat belts. The baseline seats were obtained from the MCI tested bus and the seat supplier, American Seating Company. The second and third types of seat had seat belts, and were supplied by Amaya/Astron Seating of North America (Amaya). These seats were designed to meet ECE Regulation 14 (ECE R.14) and TRANS/WP.29/78/Rev.1/Amend2. The second type of seat was designed for vehicles in the M2 category (having more than eight seating positions and mass not exceeding 5 metric tons (11,023 lb)). The third type of seat was designed for vehicles in the M3 category (having more than eight seating positions and mass exceeding 5 metric tons (11,023 lb)). The seats in vehicles of M2 and M3 categories are required to meet the seat and seat belt anchorage strength requirements in ECE R.14, which includes a 10 *g* inertial seat loading for M2 vehicles and 6.6 *g* seat loading for M3 vehicles. Accordingly, the second type of seats designed for M2 vehicles are referred to as "10 *g* seats" and the third type of seats designed for M3 vehicles are referred to as "7 *g* seats."

In developing this rulemaking initiative on motorcoach seat belts, NHTSA sought to ensure that the requirements we adopt would reflect and be appropriate for the real-world use of motorcoaches. Thus, we set up our test program to obtain data on seat belt and seat anchorage loading reflecting the likelihood that in a frontal crash, a passenger seat in a motorcoach ("target seat") could be loaded by the belted passenger occupying that target seat, the inertia load of the target seat itself, and unbelted passengers rearward of the target seat. Accordingly, the sled buck was constructed of three rows of motorcoach seats, each containing two seating positions. Each row had a seating configuration that represented an aisle and window position. The rows of seats were separated by a distance of 86 cm (34 inches), which corresponded to the average seat spacing measured on the full scale motorcoach that was crash-tested. The target seats were those in the second row. The front row seats were left unoccupied in all the tests. In some tests, the third row seats were left unoccupied, while in others they were occupied by unrestrained dummies of different sizes to represent loading on the target seat by unrestrained occupants in the rear seat.

Fifteen of the twenty sled tests performed were conducted using the VRTC pulse. Five other crash tests used the crash pulse specified in ECE R.80 (referred to as the "EU pulse"). The EU pulse is specified in Europe for testing motorcoach seats and anchorages used in the European market. The EU pulse has a higher peak acceleration and a duration approximately half of that of the VRTC crash pulse.

Results of Sled Testing

The following observations were made for this frontal sled test environment. Belt performance in side, rear, or rollover crashes may be different. Similarly, restraint performance in frontal crashes of higher or lower severity might also differ from what was seen in this evaluation.[27] For these tests, the following dummy injury criteria were measured during the full scale crash tests: HIC_{15}, Nij, Chest *g*s, Chest deflection, and Maximum Femur Compressive Force. Table 5 below shows the Injury Assessment Reference Values (IARVs) for each of the injury criteria measured.[28] For each dummy, the injury measures were calculated as specified in FMVSS No. 208 (49 CFR 571.208).

TABLE 5—INJURY ASSESSMENT REFERENCE VALUES (IARVS)

Dummy size	HIC_{15}	Nij	Chest (*g*)	Chest (mm)	Femur (N)
5th Percentile Female	700	1.00	60	52	6,800
50th Percentile Male	700	1.00	60	63	10,000
95th Percentile Male	700	1.00	55	70	12,700

In the tests, HIC_{15} and Nij injury measures varied depending on the type of restraint used, whereas Chest *g*s, chest deflection and femur forces were generally low for all dummies. However, high femur loads were observed in tests with the small female dummy. The unbelted dummies and lap belted dummies generally exhibited higher injury values than dummies secured with lap/shoulder belts. The unbelted dummies seated next to the aisle ended up on the floor in the aisle. The dummies secured with lap/shoulder belts generally stayed in their seats and exhibited the lowest injury values.

1. Sled Test Results for Unbelted Dummies

- Unbelted dummies were typically ejected out of their seating position and displaced into the aisle or adjacent seats. They were also more susceptible to hitting other hard structures.
- Average HIC and Nij measures were typically below 80 percent of the IARVs. However, it should be noted that the dummies used were frontal crash test dummies, and hence the injury measures may be limited in capturing the severity of loading during

[27] The performance of newer seats with stiffer seat backs could be different from that studied.

[28] For the 5th percentile female and the 50th percentile male dummies, the injury assessment reference values (IARVs) for these measurements are the thresholds used in FMVSS No. 208 to assess frontal occupant protection provided by new motor vehicles. (The 95th percentile male dummy is not used in FMVSS No. 208.) HIC_{15} is a measure of the risk of head injury, Chest *g* is a measure of chest injury risk, and Nij is a measure of neck injury risk. For HIC_{15}, a score of 700 is equivalent to a 30 percent risk of a serious head injury (skull fracture and concussion onset), Chest *g* of 60 equates to a 60 percent risk of a serious chest injury and Nij of 1 equates to a 22 percent risk of a serious neck injury. For all these measurements, higher scores indicate a higher likelihood of risk. More information regarding these injury measures can be found in NHTSA's technical document, "*Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraint Systems—II,*" Docket No. NHTSA–1999–6407–0005, 1999.

interaction with interior components when the dummy falls off the seat.

• Elevated HIC values resulted in tests with the 5th percentile female dummy due to head contact with the lower, hard part of the seat back in front. This observation occurred both in the sled tests and full scale crash tests and occurred regardless of the seat types evaluated.

• Larger dummies provided more deformation to the seat backs positioned in front of them and were less sensitive to the seat back type (including stiffer belted seats).

• Injury measures did not appear to be adversely affected by rear occupant loading. Any interaction with rear seated dummies occurred after the forward dummies' motion was essentially complete.

2. Sled Test Results for Lap-Belted Dummies

• HIC and Nij measures exceeded the IARVs for all the dummies tested, except for a 50th percentile male dummy whose HIC was 696 (99 percent of the IARV limit).

• The poor performance of the lap belt restraint in the sled tests was consistent with the lap belt results from the full scale motorcoach crash test.

• Compared to the unbelted dummies, the dummy's head typically hit the seat back in front at an earlier point in time due to the lap belt restraining forward motion and the upper torso pivoting about the lap belt.

• Seats in front of lap-belted dummies were not deformed by the dummies' femur loading, and consequently, when struck by the upper body of the lap-belted dummies, did not yield as much when struck as seats in front of unbelted dummies.

• Lap belts were able to retain the dummies in their seating positions post-test.

3. Sled Test Results for Lap/Shoulder Belted Dummies

• Average HIC and Nij values were low for all dummy sizes and below those seen in unbelted and lap-belted sled tests. This was consistent with the lap/shoulder belt results from the full scale crash test.

• Lap/shoulder belts retained the dummies in their seating positions and were able to mitigate head contact with the seat in front.

• Although rear unbelted occupant loading resulted in additional forward excursion for the lap/shoulder belted dummies, and head contact was made with the seat in front in some cases, the resulting average injury measures were still relatively low in most cases.

• All of the unbelted dummies in the rear seats that impacted middle row seats that were "preloaded" by belted occupants had low average injury measures that were below 80 percent of the IARVs.

• Although test dummies restrained in both the 7 *g* and 10 *g* lap/shoulder belt-equipped seat types recorded relatively low IARVs, seat anchorage loads measured in the tests exceeded the anchorage strength requirements of ECE R.14 and ECE R.80.

• The EU pulse generated higher injury numbers in the larger dummies than the VRTC pulse due to contact with the seat back in front. We attributed the increased injury measures to the higher peak acceleration and shorter duration of the EU pulse. The VRTC pulse resulted in all average injury measures to be below 80 percent of the IARVs.

• Lap/shoulder-belted dummies performed better in the oblique sled tests conducted at a 15-degree angle. They had lower injury measures and were retained in their seats.

• In the one test where the front and middle row seat backs were reclined, the injury measures for the lap/shoulder-belted occupants and the unbelted rear row occupants were all below 80 percent of the IARVs.

VI. Proposed Requirements

a. Adding a Definition of "Motorcoach" to 49 CFR 571.3

Each FMVSS specifies the vehicle type to which it applies. Motorcoaches currently fall under the definition of "bus" for the purposes of applying the Federal motor vehicle safety standards (49 CFR 571.3) and must comply with all the FMVSSs that apply to buses. A "bus" is defined in § 571.3 as "a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons." Some FMVSSs (and requirements within those standards) apply to buses with a GVWR equal to or less than 4,536 kg (10,000 lb), others apply to buses with a GVWR greater than 4,536 kg (10,000 lb), and some apply to "buses" without distinguishing GVWR.

This NPRM proposes ejection-prevention countermeasures for motorcoaches to address the problem of occupant ejection in motorcoach rollover crashes. A definition of "motorcoach" is proposed, to define the vehicle type to which the proposed requirements apply and to distinguish motorcoaches from other bus types. The National Traffic and Motor Vehicle Safety Act, 49 U.S.C. Chapter 301 (Safety Act), requires the FMVSSs to be appropriate for the vehicle type to which they apply. The agency does not believe that a seat belt requirement would be appropriate for all buses, *(e.g.,* urban transit buses) as discussed below. Comments are requested on whether other bus types should be considered motorcoaches for purposes of applying a passenger seat belt requirement.

When creating a vehicle type classification for the FMVSSs, NHTSA typically looks at the construction type and the purpose for which the vehicle is being built. NHTSA has a number of major categories of motor vehicle types: Passenger cars, multipurpose passenger vehicles (MPVs), trucks, buses, trailers, and motorcycles. There are two subcategories of buses in 571.3, school bus and multifunction school activity bus. For the most part, for purposes of objectivity, the agency defines vehicles by their visible attributes and construction features rather than by their intended use. The exception is the "school bus" definition, which is set forth in the Safety Act and in § 571.3, *Definitions,* and which refers to the intended purpose for which the vehicle is sold. To make the motorcoach definition as clear as possible, we prefer defining "motorcoach" using reference to relevant visible attributes and construction characteristics rather than by the intended use of the vehicles.

Currently, there is no common Departmental or industry definition of "motorcoach." We examined the definition of motorcoach used in other countries and the definition used in the Fatality Analysis Reporting System (FARS). For countries that have adopted the European regulations, including Australia, motorcoaches are defined as Class III, M3 vehicles. Class III, M3 vehicles are defined as having occupant seating locations for more than 8 passengers, vehicle weights in excess of 5 metric tons (11,023 lb) and are not designed to carry standing passengers. We consider this ECE definition too broad for us to use as a definition of motorcoach, as it captures vehicles that we have tentatively concluded ought not to be subject to the proposed motorcoach seat belt standards at this time.

The ECE definition applies to vehicles that are not defined as "buses" in the U.S. Federal motor vehicle safety standards. The ECE definition applies to smaller buses that are not normally used as motorcoaches. We are proposing a subset of the bus classifications used in the ECE regulations, but have only included buses with a seating capacity of 16 or more to remain consistent with other U.S. regulations (such as the commercial drivers' license

requirements administered by FMCSA). NHTSA's data indicate that buses with a seating capacity of 16 or more are typically used for motorcoach services in the U.S.

The FARS database uses the following description of a motorcoach, "Cross Country/Intercity Bus (*e.g.,* Greyhound)." Other descriptive information about bus use is also collected in a sub-category, *i.e.,* commuter, tour, scheduled service, shuttle, etc. For our purposes, this FARS definition lacks sufficient specificity and is of limited use in determining the applicability of the FMVSS.

NHTSA also reviewed some pending bills in Congress on motorcoach safety that defined the vehicles subject to their terms and the operating characteristics of those vehicles, *see* Transportation Equity Act for the 21st Century (Pub. L. 105–178) (TEA–21). Those definitions included the following:

- The term "intercity, fixed-route over-the-road bus service" means regularly scheduled bus service for the general public, using an over-the-road bus, that (a) operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity; (b) has the capacity for transporting baggage carried by passengers; and (c) makes meaningful connections with scheduled intercity bus service to more distant points.
- The term "other over-the-road bus service" means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).
- The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

As explained below, these definitions were either too narrow for our purposes, as many motorcoaches lacked an elevated passenger deck over a baggage compartment, or were based on the intended use of the vehicle, which might not be known at the time of the manufacture of a particular vehicle.

FMCSA does not have a definition for motorcoach in its regulations. The agency's passenger carrier safety information simply states that a motorcoach (also called an over-the-road bus) can typically transport 40 to 50 passengers.

To develop a motorcoach definition, we examined the type of buses involved in motorcoach fatalities, including the construction type and various attributes within the vehicle to determine if any one characteristic was common to all the buses. We found no such single characteristic for motorcoaches to distinguish those vehicles from other buses. An elevated passenger deck over a baggage compartment was not an element common to all buses involved in motorcoach fatalities. Some body-on-chassis models offered a storage compartment for baggage and other personal belongings in the rear of the bus. For other motorcoaches, the baggage compartment was offered as an option to the purchaser. We also determined that a separate storage location was not needed for tour services and most tour buses were equipped with an overhead location for passengers to store personal belongings.

We reviewed the underlying chassis structure of various motorcoaches. Some motorcoaches have a monocoque [29] structure with a luggage compartment under the passenger deck. We also found motorcoaches built on body-on-chassis configurations. These body-on-chassis configurations are believed to be newer entrants into the motorcoach services market and appear to be increasing in number. A cursory review of the types of buses being used in the Washington, DC area for motorcoach services show that traditional motorcoaches are generally used for fixed-route services between major metropolitan areas. However, for charter, tour, and commuter transportation from outlying areas, many bus types are used. Some are of monocoque structure, while others are of body-on-chassis structure.

Another distinguishing feature we considered was whether the bus included a self-contained toilet. We determined that a self-contained toilet was only prevalent on long distance travel buses and was not present in all tour or commuter buses. Other equipment such as reading lights, video displays, ventilation ports and adjustable seat backs were also not common to all motorcoach type buses. Accordingly, identifying a motorcoach by the presence of a self-contained toilet, or by reading lights, video displays and the like could exclude many of the buses that have been involved in rollover crashes resulting in ejections over the years. (We also wanted to avoid a definition that could be easily circumvented by persons seeking to have their buses excluded from the motorcoach category. Such a definition would be one that specified that a motorcoach is a vehicle with a feature that could be readily left off of the vehicle.)

[29] Monocoque means a type of vehicular construction in which the body is combined with the chassis as a single unit.

Physical Characteristics Identified

Yet, we were able to identify some physical features which appear to be nearly universally common to all buses performing motorcoach services. In our search, we returned to the FARS data to analyze data files for the years 1999–2008, to determine the fatality counts in buses. We examined GVWR, body type, and how the buses were used (transit, school, other). The data available for this 10-year period for fatalities of occupants in buses other than transit buses and school buses show that only 12 percent of the passenger fatalities were in buses with a GVWR less than or equal to 11,793 kg (26,000 lb). We also found that among fatalities in these buses (buses other than school buses and transit buses) with GVWR greater than 11,793 kg (26,000 lb), 87 percent were in tour/intercity buses, 4 percent in commuter buses, 7 percent in shuttle buses, 1 percent in buses used for school transportation and 1 percent in buses modified for personal use.

Based on these data, we determined that one practically uniform attribute for motorcoaches was that their GVWR was greater than or equal to 11,793 kg (26,000 lb).

Upon further review of the FARS files, we identified characteristics that were nearly universally common to all buses performing motorcoach services: a GVWR of 11,793 kg (26,000 pounds) or greater, 16 or more designated seating positions, and two or more rows of forward facing seats that were rearward of the driver's seating position. We are thus proposing to define "motorcoach" using those characteristics. We are proposing to exclude school buses and urban transit buses (for reasons explained below) from the definition. We intend for the definition to include buses sold for intercity, tour, and commuter bus service. The intercity, tour, or commuter bus would be a "motorcoach" if it has a GVWR of 11,793 kg (26,000 lb) or greater, 16 or more designated seating positions, and two or more rows of forward facing seats that were rearward of the driver's seating position.

Exclusions

We propose excluding urban transit buses from the proposed definition of motorcoaches because fatality data for urban transit buses differ significantly from that of motorcoaches, and because of the stop-and-go manner in which urban transit buses are used. A review

of FARS data over a ten year period (1999–2008), shows that there were 31 fatal crashes involving occupants of urban transit buses, resulting in a total of 32 fatalities, of which 16 were drivers and 16 were passengers. Thus, one fatality occurs per fatal crash, on average. Frontal crashes without rollover were identified as the most common most harmful event (53 percent of crashes) followed by side crashes with no rollover (9 percent), and falling from vehicle (9 percent). Four of the 16 transit bus passenger fatalities were ejected (25 percent), compared to 74 (53 percent) for cross-country/intercity bus passengers. In summary, there are far fewer fatalities per crash for urban transit buses, a significantly lower percentage of fatalities due to ejection compared to cross-country/intercity buses, and thus a significantly lower risk of occupant ejection. For these reasons, we are not proposing to require seat belts in urban transit buses at this time.[30]

The motorcoach definition does not exclude "shuttle buses," but comments are requested as to whether shuttle buses should be excluded. Keep in mind that these shuttle buses would be those buses with a GVWR of 11,793 kg (26,000 lb) or greater, 16 or more designated seating positions, and two or more rows of forward facing seats that are rearward of the driver's seating position. Some shuttle buses of this size can traverse substantial distances at highway speeds. On the other hand, they may travel on shorter routes. We request comments on whether large (GVWR of 11,793 kg (26,000 lb) or greater, 16 or more designated seating positions) shuttle buses are used in such a different manner than motorcoaches that a requirement for seat belts would be inappropriate for the former vehicle type. We also request comments on how a shuttle bus could be defined so that it would be distinguishable from a motorcoach.

Comments are also requested on the proposed definition of "motorcoach."

Comments are requested on the aspect of the proposed definition that would use a GVWR criterion of 11,793 kg (26,000 lb) or more. One of the NTSB's June 22, 2010 recommendations to NHTSA resulting from the Dolan Springs, AZ crash is that NHTSA "develop regulatory definitions and classifications" and apply this rulemaking on occupant protection to all buses above 4,536 kg (10,000 lb) GVWR, except school buses. NHTSA has reviewed FARS data from 1999–2008 on passenger fatalities in buses coded in FARS as "motorcoach," "other bus," and "transit" in different GVWR categories. As shown in Table 6 below, there were many fewer passenger fatalities in motorcoaches and other buses with a GVWR between 4,536 kg and 11,793 kg (10,000 lb and 26,000 lb) in the 10-year period compared to passenger fatalities in those vehicles with a GVWR greater than 11,793 kg (26,000 lb).

TABLE 6—FATALITIES IN BUSES BY GVWR AND BODY TYPE; FARS 1999–2008

GVWR*	Motorcoach		Other bus		Transit	
	Driver	Pass	Driver	Pass	Driver	Pass
4,536 kg to 11,793 kg (10,000 lb to 26,000 lb)	0	1	6	24	0	3
Greater than 11,793 kg (26,000 lb)	24	161	10	30	16	13

*Missing GVWR were imputed based on the distribution of known values.

Applying this rulemaking to buses with a GVWR of 11,793 kg (26,000 lb) or greater addresses vehicles that account for 88 percent of all fatalities in buses with a GVWR greater than 4,536 kg (10,000 lb) (other than school buses and transit buses) and addresses 89 percent of fatal ejections from such vehicles.

Comments are requested on a GVWR criterion that is less than 11,793 kg (26,000 lb). Commenters supporting such a criterion should discuss the safety need to apply the requirements for motorcoaches to buses with a GVWR of less than 11,793 kg (26,000 lb) and the cost and other impacts on shuttle buses and urban transit buses (assuming these vehicles are not excluded from the motorcoach definition).

Regarding other aspects of the proposed definition, is the 16 or more designated seating positions (including the driver) requirement reasonable? Is a criterion necessary that a motorcoach must have two or more rows of forward facing seats that are rearward of the driver's seating position? What other feature(s) of a motorcoach could be objectively incorporated into the definition?

b. Requiring Seat Belts at Passenger Seating Positions

This NPRM proposes to amend FMVSS No. 208 to require the installation of seat belts at all passenger seating positions in new motorcoaches. Currently for buses, FMVSS No. 208 requires a seat belt for only the driver's seat in all buses. As discussed above, the risk of ejection on motorcoaches can be reduced by seat belts. Seat belts are estimated to be 77 percent effective in preventing fatal injuries in rollover crashes, primarily by preventing ejection. As for the type of seat belt that we should require, we are proposing that lap/shoulder belts be installed at forward-facing seating positions. Our test program showed that lap/shoulder belts at forward-facing seating positions were effective at preventing critical head and neck injury values, whereas dummies in lap only belts measured HIC and Nij values surpassing critical thresholds.

However, for side-facing designated seating positions, we are providing manufacturers the option of installing either a lap belt or a lap/shoulder belt. This option is consistent with current requirements of FMVSS No. 208 (S4.4.5.6), which allow lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lb) or less. We propose to permit lap belts in side-facing seats because we are unaware of any demonstrable increase in associated risk. We note that a study commissioned by the European Commission regarding side-facing seats on minibuses[31] and motorcoaches found that due to different seat belt designs, crash modes and a lack of real world data, it cannot

[30] The proposed motorcoach definition excludes "an urban transit bus sold for operation as a common carrier in urban transportation along a fixed route with frequent stops." We request comments on whether this use-based definition could be instead based on some common physical attribute(s) of urban transit buses that could distinguish them from cross-country/intercity/commuter buses.

[31] Minibus is a European term for buses that are roughly equivalent to the range of large passenger vans up to 15 passengers. They are limited to "more than 8 but no more than 16 passengers, excluding the driver."

be determined whether a lap belt or a lap/shoulder belt would be the most effective.[32]

Integrated Anchorages

We propose that the seat belt anchorages, both torso and lap, be required to be integrated into the seat structure for motorcoach passenger seats, except for the belt anchorages in the last row of the motorcoach (if there is no wheelchair position or side emergency door behind these seats) and in the driver seating position. We propose integral lap/shoulder belts on motorcoaches to ensure that seat belts for inboard seat positions, in particular, are not mounted such that the belt webbing could impede safe passage through the bus interior during emergency egress. This provision would be consistent with that of an October 21, 2008 final rule (73 FR 62744, at 62763), in which the agency required that small school buses have lap/shoulder belts with the seat belt anchorages integrated into the seat structure, except for the last row of seats.[33] We note also that this provision would be consistent with ECE R.80, which requires that seat belts be fitted to the seat unless there is no seat immediately behind it.[34]

NHTSA seeks comment on whether there are anchorage designs, other than those integrated into the seat back, that would not impede emergency evacuation or otherwise cause injury to unbelted passengers.

The last row would be excluded from the requirement because we have less concern about emergency exit access for the last row of seats. We believe that the location and style of the last row seats in motorcoaches make it possible to place belt anchorages behind or to the side of the seat, where the belt webbing would not impede safe travel in and out of the seat. Typically the seats in the last row are integral with the vehicle body structure anyway, and most commonly, the torso restraint retractors at such seats are mounted into the bus body structure, and the shoulder belts are routed over the upper edge or through the seat back. We believe that restraints mounted in this manner will not impede access to emergency exits or become an injury hazard to unbelted passengers. However, if the seat plan has a wheelchair position located behind the rearmost passenger seat, or a side emergency door rearward of it, the rearmost passenger seat must have its seat belt assembly anchorages attached to the seat structure to reduce the risk of tripping, entanglement or injury.

The driver's seating position would be excluded from the requirement for integral lap/shoulder belts because the driver's compartment is usually separated from the passenger compartment by a bulkhead or partition and passengers are less likely to be entangled in the driver's belt system during egress.

Seat Belt Adjustment, Fit, Lockability, and Other Requirements

NHTSA proposes that the requirements for lap/shoulder belts include provisions for seat belt adjustment and fit as specified in S7.1 of FMVSS No. 208. Specifying belt adjustment and fit would ensure that the seat belts would be able to accommodate occupants whose dimensions range from those of a 50th percentile 6-year-old child to those of a 95th percentile adult male.

Furthermore, NHTSA proposes that the upper torso restraint must adjust either by means of an emergency-locking retractor that conforms to § 571.209, or by a manual adjusting device that conforms to § 571.209. In addition, we propose that the seat belt at each designated seating position, besides the driver's position, meet FMVSS No. 208's lockability requirements. The lap belt portion must be lockable so that the seat belt assembly can be used to tightly secure a child restraint system without the use of any device that must be attached by the consumer to the seat belt webbing, retractor, or any other part of the vehicle. The lap belt must be lockable without any inverting, twisting or other deformation of the belt webbing.

Among the requirements proposed by this NPRM are that each seat belt assembly must have a latch mechanism with all the latch mechanism components accessible to a seated occupant, and that the latch mechanism be capable of releasing both the upper torso restraint and the lap belt simultaneously at a single point and by a pushbutton action. It is noted that FMVSS No. 209 (49 CFR 571.209) currently applies to "seat belt assemblies for use in passenger cars, multipurpose passenger vehicles, trucks, and buses," and so this standard would apply to any seat belt assembly installed on a motorcoach without any further action by NHTSA.

c. Requiring Lap/Shoulder Belts for Driver Position

Currently for buses, FMVSS No. 208 requires either a lap or lap/shoulder seat belt for the driver-seating position in all buses with a GVWR greater than 4,536 kg (10,000 lb).[35] This NPRM proposes to amend FMVSS No. 208 to require lap/shoulder belts for the driver seating positions in motorcoaches and for the driver's position in large school buses.[36] Similar to seat belt requirements in FMVSS No. 208 for other vehicles with GVWRs greater than 4,536 kg (10,000 lb), the performance of the lap/shoulder belt anchorages and attachment hardware on the driver's seating position would be assessed through FMVSS No. 210 rather than through dynamic crash testing.

Our motorcoach sled tests demonstrated that lap/shoulder belts provided superior protection over lap belts. This proposal also accords with NTSB Safety Recommendation H–90–75.

Based on our assessment of the industry, we believe that school bus and motorcoach manufacturers are already providing to some degree, or moving toward providing, lap/shoulder belts for driver seating positions. We estimate approximately 40 percent of new motorcoaches sold in 2010 will have lap/shoulder belts at the driver seating position, and that these lap/shoulder belts meet the seat belt anchorage strength requirements of FMVSS No. 210. We have included in the PRIA an estimate of the incremental cost of requiring lap/shoulder belts for the driver's position in all motorcoaches and large school buses.

We propose not to require lap/shoulder belts for drivers of transit or other buses. These buses are driven in different environments than motorcoaches. Motorcoaches are often driven on highways and other high-speed roads, so the risk of injury is greater for drivers of these vehicles. Comments are requested on whether the requirement for lap/shoulder belts for the driver should apply to transit and other buses.

[32] *http://ec.europa.eu/enterprise/automotive/projects/safety_consid_long_stg.pdf.*

[33] This provision was established out of concern that some manufacturers could incorporate seat belt anchorages into other structures in the school bus, potentially obstructing passengers during emergency egress.

[34] *See* ECE R.80 Appendix 5: Specifying that all "fittings forming part of the back of the seat or accessories thereto * * * be unlikely to cause any bodily injury to a passenger during impact."

[35] FMVSS No. 208 also currently provides manufacturers the option of equipping buses with a complete occupant protection system that protects an occupant without any action by the vehicle occupant, *i.e.,* a passive occupant protection system such as an air bag or automatic belt system. Currently, no bus manufacturer has elected to meet FMVSS No. 208 using this option. All bus manufacturers have certified compliance by installing seat belts at the driver's position.

[36] The driver's position in school buses with a GVWR equal to or less than 4,536 kg (10,000 lb) already is required to have a lap/shoulder belt.

d. Anchorage Strength Requirements

We propose that motorcoach lap/shoulder belts be required to meet the anchorage strength requirements of FMVSS No. 210. As noted above, we have proposed a requirement that motorcoach passenger lap/shoulder belts must be integrated into the seat structure. Thus, a seat belt anchorage strength requirement does more than specify the strength of the seat belt attachment to the vehicle seat; it actually encompasses the attachment of the seat to the bus. A seat belt anchorage strength requirement provides the foundation upon which the entire occupant protection system is built. If the anchorage fails, the belted occupant could be propelled beyond the confines of the occupant seat space, and injury or ejection could occur.

In developing a performance standard for lap/shoulder belt anchorages, the agency considered several alternatives, and assessed the suitability of the alternatives using seat belt anchorage test data obtained in the motorcoach crash test and sled test program. While NHTSA believes that the test data support applying FMVSS No. 210 to motorcoach passenger seat belt anchorages, we request comments on alternatives to FMVSS No. 210.

In the motorcoach research program, NHTSA evaluated the requirements of FMVSS No. 210, ECE R.14, ECE R.80, and two other methods we derived using the VRTC sled test data. We studied these alternative approaches to FMVSS No. 210 after having found in the motorcoach crash test that the vehicle in the 48 km/h (30 mph) rigid barrier crash test experienced only a 13 *g* peak deceleration (crash pulse). This is relatively low when compared to the peak deceleration levels in light vehicle rigid barrier crash tests. Because the crash pulse was low, we were concerned that the FMVSS No. 210 loads might be unnecessarily stringent for motorcoach seat belt anchorages. To determine how the FMVSS No. 210 and ECE R.14 forces compared to motorcoach anchorage forces, we evaluated data from our frontal sled test program to determine the magnitude of the forces exerted on the seat anchorages.

We studied five sled tests from the sled test program to determine the loads measured at the seat belt anchorages.[37] These five were selected because they represented demanding yet potentially common scenarios for the loads we believe will be imparted to seat belt anchorages during a motorcoach crash. We identified the loads recorded in the sled tests at the seat anchorage points in the second row "target seat," the loads on the lap/shoulder belts in the target seat in which test dummies were restrained, and the loads to the seat back of the target seat from the unrestrained dummies in the third row. We then compared those loads to the loads that seat belt and seat anchorages are required to withstand under FMVSS No. 210, ECE R.14 and ECE R.80. In that way, we could determine which performance test best appeared to account for the loads to which the motorcoach seat belt anchorages would be exposed.

The five sled tests from the test program consisted of the following:

- The 50th percentile male test dummies restrained with lap/shoulder belts in the middle row with no test dummies in the rear row. Data from this test were deemed important because the data represented the average seat forces that would be experienced due to belt loading from the restrained occupant in the seat without any added seat back loading from the rear.
- Two 50th percentile male test dummies restrained with lap/shoulder belts in the middle row with two unrestrained 50th percentile male dummies in the rear row. Data from these tests were deemed important because they represented what we believed to be the average elevated seat forces that would be experienced due to loading from the restrained occupant in the seat and seat back loading from the unrestrained occupant in the rear row. One test used a 7 *g* seat, while the other test used a 10 *g* seat.
- One 5th percentile female test dummy and one 50th percentile male dummy restrained with lap/shoulder belts in the middle row and two unrestrained 95th percentile male dummies seated in the rear row. Data from these tests were deemed important because they represented what we believed to be the maximum rear loading seat forces that would be experienced by the target seat. One test used a 7 *g* seat, while the other test used a 10 *g* seat.

We found that of the five tests, the highest total load experienced by the seat belt anchorage was 48,569 N (10,918 lb) (or approximately 24,285 N (5,460 lb) per seating position). This load resulted from the test of the 10 *g* seat with two restrained 50th percentile male dummies and two unrestrained 50th percentile male dummies in the rear row.

We compared these loads to the loads which motorcoach seats would be subjected to under FMVSS No. 210, ECE R.14, and ECE R.80. This comparison is discussed below. Based on the comparison and other considerations, our preferred alternative is to apply FMVSS No. 210 to the motorcoach seat belt anchorages. We prefer FMVSS No. 210 to ECE R.14 and ECE R.80 but ask for information that can enable us to make a fuller incremental assessment of each alternative's costs and benefits, including any related to having harmonized standards between the U.S. and the EU.

FMVSS No. 210

In FMVSS No. 210, lap/shoulder belt anchorages and attachment hardware are required to withstand a 13,345 N (3,000 lb) force applied simultaneously to the lap and torso portions of the belt assembly for 10 seconds.[38] Anchorages, attachment hardware, and attachment bolts for seats with multiple designated seating positions are tested simultaneously.

In the sled test that resulted in the highest total load on the seat belt anchorages, a load of 48,569 N (10,918 lb) was measured at the seat anchorage (or approximately 24,285 N (5,460 lb) per seating position). This value was only slightly lower than the forces applied by FMVSS No. 210 (26,688 N (6,000 lb) per seating position). That is, the highest total peak dynamic loading recorded by the seat anchorage of the tests (48,569 N) was about 91 percent of that applied in FMVSS No. 210 (26,688 N per seat, or 53,379 N for a two-person motorcoach seat). These data indicate that the FMVSS No. 210 load would account for seat belt loads generated by a restrained occupant, seat inertia loads, and loading from unbelted occupants in the rear. We believe that a motorcoach seat manufactured to meet FMVSS No. 210 would better be able to withstand this tri-loading on the seat in a severe yet not uncommon motorcoach crash, than a seat that was not manufactured to account for the rearward loading. The static load profile in FMVSS No. 210 provides a factor of safety over the loads experienced in an actual crash and would adequately ensure that the anchorages will not fail when subjected to the loads of a real-world crash event.

[37] As explained above, the seat belt anchorage comprises any component involved in transferring seat belts loads to the vehicle structure. See S3, FMVSS No. 210. Since the motorcoach seat belts are attached to the vehicle seat, the seat belt anchorage includes the seat frame and seat pedestal.

[38] The exception is Type 2 lap belts that have detachable torso belts. The lap belt anchorages and attachment hardware of these belts are required to withstand an applied force of 22,241 N (5,000 lb) for 10 seconds.

ECE R.14 and ECE R.80

We examined the ECE R.14 and ECE R.80 procedures for relevancy to motorcoaches used in the U.S. The ECE R.14 procedure is a static test method to evaluate safety belt and seat anchorage strength and the ECE R.80 procedures evaluate the seat's anchorage strength and the seat back's energy absorption capability for protection to occupants in the rear seat.

The ECE R.14 load does not include the load that rearward unbelted occupants would impose on the seat in front of the unbelted occupants. ECE R.14 applies a load of 4,500 N to the shoulder belt and 4,500 N to the lap belt (total of 9,000 N). In addition, it applies inertial seat loading of 6.6g × the weight of the seat. For a 40 kg seat, this is 1,300 N per seating position. The total seat load is 10,300 N per seating position. (For reference, FMVSS No. 210 applies a load of 26,688 N per seating position). In accounting only for belt loading on the seat and the inertial seat loading for 6.6 gs, ECE R.14 does not take into account the loading from an unrestrained occupant in the rear. In addition, we note also that the lap and shoulder belt loads measured in the agency's sled tests exceeded the 4,500 N applied force per ECE R.14. In the sled test with two restrained 50th percentile male dummies in the target seat and without any dummies in the rear row, the total lap and shoulder belt loads exceeded 9,000 N for both dummies.

The ECE R.80 load does not include the seat belt loads from the restrained occupant in the seat and only evaluates anchorage strength in terms of the loading of the seat back from unrestrained and restrained occupants in the rearward row. The ECE R.80 optional static test to evaluate anchorage strength applies a load of 5,000 N to each seating position. This load represents about 19 percent of the applied load in FMVSS No. 210 and about 20 percent of the seat anchorage loads measured in the agency's sled tests. The 5,000 N applied load is also lower than the estimated loading on the target seat in the sled tests from the unrestrained occupant in the rearward row.

The ECE R.14 applied belt loads and inertial seat loads result in higher seat anchorage loads than the ECE R.80 applied seat loads. However, ECE R.14 and ECE R.80 both determine seat belt and seat anchorage strength by separately considering the loading from the belted occupant in the seat and the loading due to unrestrained occupants in the rear row. There is no requirement in ECE regulations for the seat anchorages to sustain the combined loads from the restrained occupant in the seat and rear occupant loading.

In developing this proposal to require seat belts on motorcoaches, we wanted to ensure protection to the belted occupant in a 48 km/h (30 mph) crash in reasonably foreseeable situations, including situations where an unbelted occupant is in the rear. Our sled tests show the importance of accounting for the loads from the unbelted occupants rear of the target seat. In the test of the 7 *g* seat with restrained 50th percentile male dummies in the target seat and unrestrained 50th percentile male dummies in the rear, we estimated that the total peak load on the anchorages from the lap/shoulder belts alone for one motorcoach seating position was 11,400 N and that from rear occupant loading was 8,150 N. The contribution of anchorage loads in this sled test from the seat belt loading alone was greater than the 9,000 N applied by ECE R.14 and the loading from rear occupant loading was greater than the 5,000 N applied by ECE R.80. Further, we expect that the anchorage loads due to seat belt loads would be greater than that estimated in this sled test when the seat is occupied by a restrained 95th percentile male. Similarly, the anchorage loads due to rear occupant loading would be greater when the rear seat occupants are 95th percentile male.

Unfortunately, nonuse of the seat belts on motorcoaches by a number of occupants is very plausible at this time. Australian data indicate that seat belt use on motorcoaches in that country was as low as 20 percent.[39] For the reasons explained above, we believe that ECE R.14 requirements are insufficient to protect the belted occupant in these circumstances.

We have examined real world data in the EU for insights into this issue but the data were unhelpful. It appears that while the U.S. has more fatalities in rollover (due to ejections), the EU has a high percent of fatalities in frontal crashes. The European data is a bit ambiguous, however, because of the nonuniform classification of buses in different countries. In addition, the EU data include transit buses. Thus, it is not clear whether the higher percentage of fatalities in frontal crashes is due to poor restraint performance or due to differences in vehicle classification and how the vehicles are used.

We do not believe there would be adverse consequences associated with applying FMVSS No. 210 to motorcoach seat belt anchorages rather than ECE R.14, although comments are requested on the benefits and costs of adopting ECE R.14 over FMVSS No. 210. Would motorcoach seats have to be significantly heavier to meet the more stringent strength requirements of FMVSS No. 210, or made stiffer and more uncomfortable, as compared to seats rated by their manufacturer as meeting ECE R.14? Would significant changes to meet FMVSS No. 210 requirements lead to reduced number of passengers that can be accommodated on buses? We do not believe there would be adverse consequences to meeting FMVSS No. 210 in terms of weight, comfort, or cost, because data from our testing program indicate that the Amaya 7 *g* seats we acquired to evaluate in our motorcoach testing program—seats on the market today—appeared to have been already made to meet the more stringent requirements of FMVSS No. 210.

In April 2009, VRTC tested existing Amaya lap/shoulder belt seat designs to evaluate FMVSS No. 210 performance. The agency sought to understand the extent to which changes will be needed to existing 7 *g* and 10 *g* seat and seat anchorage designs in order to meet the performance requirements in FMVSS No. 210. Two static tests were performed using the test method in FMVSS No. 210.[40] For these tests, floor and side seat rails removed from the crash tested motorcoach were used to anchor the seats being tested to the test fixture to determine if current seat mounts would be capable of meeting the loads generated through the FMVSS No. 210 procedure. The floor-mounted seat rails obtained from the crash tested motorcoach were made of steel and welded directly to the test fixture. The side seat rails obtained from the crash tested motorcoach were made of aluminum and affixed to the test fixture to prevent movement during the static load tests. The subject seats were then installed in the test fixture in accordance with the manufacturer's installation instructions. (We note that one limiting factor of the tests was the fact that the seat rails removed from the crash tested motorcoach were mounted directly to the test fixture rather than

[39] "Three Point Seat Belts on Coaches—the First Decade in Australia", by Griffiths, Paine, and Moore, Queensland Transport Australia, 2009.

[40] An additional test was conducted on a 10 *g* seat because an initial FMVSS No. 210 test was conducted on a 10 *g* seat using the same seat mounting rails used during the 7 *g* seat test. During this 10 *g* seat test, the seat failed to meet the FMVSS No. 210 loads. However, we determined that this test should be deemed invalid because the seat rails were reused. It was unknown to what extent the rails were damaged during the previous test, thus affecting the results of the subsequent test. The rails were replaced on the test fixture and a second test using a 10 *g* rated seat was performed successfully.

the monocoque structure of the motorcoach. We are uncertain of how the load response of the monocoque structure differed from the response of the test fixture.[41] However, we believe that the test fixture sufficiently emulated the motorcoach structure in determining the performance of the seat during the FMVSS No. 210 tests. The test fixture incorporated long enough sections of the seat mounting rails (mounted in a manner that closely resembled the rail installation in the motorcoach) to ensure that any localized forces would be captured during the test procedure).

Both the 7 *g* and 10 *g* seats were able to meet the FMVSS No. 210 performance requirements as installed in the test fixture. This not only demonstrates the practicability of our proposed FMVSS No. 210 requirements with current designs, it shows that meeting FMVSS No. 210 is not likely to adversely affect the weight or comfort of current "7 *g*" seats.

Nonetheless, to examine the costs and benefits of the proposed amendments, although ECE R.14 might be ineffective in some circumstances we would like to explore the regulation as an alternative to FMVSS No. 210. NHTSA has been unable to assess how much more costly and how much more beneficial in monetized terms would FMVSS No. 210 be over the ECE R.14 requirement, in part because we have not been able to test 7 *g* and 10 *g* motorcoach seats that barely meet the ECE requirements and that do not meet FMVSS No. 210. The Amaya seats we tested met FMVSS No. 210, so in effect were FMVSS No. 210 seats. We could not assess the incremental costs and benefits that would result from changing these Amaya seats to meet FMVSS No. 210, since the seats already met FMVSS No. 210.

To help NHTSA examine the costs and benefits of alternatives, NHTSA requests information from commenters as to the performance of minimally-compliant ECE R.14 seats (*i.e.,* seats that meet ECE R.14 and not FMVSS No. 210). What are the incremental costs and benefits of meeting ECE R.14? What are the incremental costs and benefits of FMVSS No. 210? How does a minimally-compliant seat perform when tested to FMVSS No. 210? How does such a seat perform when tested in accordance with ECE R.14? How much do these minimally-compliant seats weigh? What is their cost? Comments are requested on whether loading from an unbelted occupant rearward of the target seat should be included in the forces applied to the seat belt anchorages in the FMVSS compliance test. Are manufacturers that sell buses in the U.S. and the EU already complying with the current ECE. R.14 standard? Are there any advantages to harmonizing U.S. standards with EU standards? What are the additional costs and benefits for having different standards in the U.S.?

VRTC Devised Procedures

NHTSA also considered in the research program two alternative methods to evaluate seat belt anchorage strength but both were deemed not sufficiently beneficial to pursue in this NPRM. In the first method, "Method A," we evaluated the sum of the seat belt forces from the lap/shoulder belt and the rear dummy femur forces to estimate the loading experienced by the seat in the sled tests. We found that Method A closely replicated the total loads acting on the seat back and seat belt portion of the seat but did not capture the full load on the seat in the sled test. Method A was deemed to significantly underestimate the forces exhibited at the seat anchorage points.

In the second method, "Method B," we evaluated the sum of the peak dynamic forces acting on the seat anchorages to estimate the load profile. We found that Method B more closely estimated the dynamic anchorage loading profile from the sled tests than the Method A profile. However, the loads estimated by Method B were very close to the performance requirements specified in FMVSS No. 210. With the results being similar, we concluded that it would be appropriate to propose to specify FMVSS No. 210 loading in the NPRM rather than developing an entirely new performance test method to determine anchorage strength.

For the reasons provided above, we propose our preferred alternative of subjecting motorcoach seat belt anchorages to FMVSS No. 210.

e. Regulatory Alternatives

NHTSA has examined the benefits and costs of the proposed amendments, wishing to adopt only those amendments that contribute to improved safety, and mindful of the principles for regulatory decisionmaking set forth in Executive Order 12866, Regulatory Planning and Review. In accordance with the Executive Order, NHTSA has analyzed an alternative of requiring lap belts for passenger seating positions, instead of lap/shoulder belts for these seating positions. NHTSA is also considering an alternative regarding the anchorage strength requirement that the lap/shoulder belts should meet, *i.e.,* ECE R.14 anchorage strength requirements, as opposed to FMVSS No. 210 requirements. These alternatives are addressed below.

Lap Belts

The agency has examined an alternative of adding a lap belt only as a substitute for lap/shoulder belts on motorcoaches. The examination has reinforced our preference for lap/shoulder belts.

Real world data on light vehicles and sled testing with motorcoach seats both show that lap/shoulder belts are more effective than lap belts in reducing injuries and fatalities. Given the cost estimates and effectiveness estimates assumed in NHTSA's analysis, the cost per equivalent life saved is essentially the same between lap belts and lap/shoulder belts. The breakeven point for lap belt use is 17 percent and for lap/shoulder belt use is 24 percent. However, lap/shoulder belts are used more often than lap belts. The ratio of this difference is essentially the same as was found between lap and lap/shoulder belt usage in the rear seat of passenger cars. Assuming that this relationship would hold for motorcoaches, the cost per equivalent life saved for lap belts is essentially the same as for lap/shoulder belts. *See* the PRIA for more information.

Anchorage Strength Requirements

In Section VI.d of this preamble, NHTSA discussed its proposal for the strength requirements the agency believes motorcoach seat belt anchorages (and the seat structure itself) should meet. The preferred alternative is our proposal to extend FMVSS No. 210 to motorcoach seat belt anchorages. However, as discussed in Section VI.d, we seek comment on the alternative of applying the requirements of ECE R.14 rather than FMVSS No. 210. Our reasons for preferring FMVSS No. 210 are discussed in Section VI.d, as are questions asking for information that could enable us to better assess the costs and benefits of ECE R.14 requirements.

As the agency does in all its FMVSS rulemaking, in developing this proposal NHTSA considered international standards for harmonization purposes. The agency thus reviewed regulations issued by Australia and Japan. In Australia, buses with 17 or more seats and with GVWRs greater than or equal to 7,714 lb must comply with ADR 68 (Occupant Protection in Buses). The ADR 68 anchorage test specifies

[41] One possibility is that the monocoque structure would act similarly, but would flex more. This flexion could conceivably open gaps in the floor rails or side rails near the anchorage hardware, which could lead to seat separation from the rail.

simultaneous application of loading from the belted occupant, the unbelted occupant in the rear (applied to the seat back), and the inertial seat loading from a 20 *g* crash pulse. We estimate that the ADR 68 anchorage test would result in significantly greater (1.5 times higher) anchorage loads than those measured in our sled tests. In addition, the maximum deceleration in our 48 km/h (30 mph) motorcoach crash test was only 13 *g* compared to the 20 *g* specified for inertial seat loading in ADR 68. For these reasons, NHTSA decided not to further consider ADR 68. NHTSA decided against further consideration of Japan's regulation because Japan requires lap belts, and the performance requirements we are seeking are for lap/shoulder belts.

VII. Other Issues

a. FMVSS No. 207, "*Seating systems*"

In formulating this rulemaking, NHTSA also considered whether FMVSS No. 207, "Seating systems," should apply to motorcoach passenger seats. The standard establishes requirements for seats, their attachment assemblies, and their installation to minimize the possibility of their failure by forces acting on them as a result of vehicle impact. For most vehicles required by FMVSS No. 208 to have seat belts, the seat belt anchorages must be certified to the strength requirements of FMVSS No. 210 and the seats must be certified to FMVSS No. 207. Part of the FMVSS No. 207 requirements tests the forward strength of the seat attachment to the vehicle replicating the load that would be applied through the seat center of gravity by inertia in a 20 *g* vehicle deceleration.

If the seat belt anchors are attached to the seat, FMVSS No. 207 requires that the FMVSS No. 210 anchorage loads be applied at the same time the FMVSS No. 207 inertial load is applied. This stems from the fact that during a crash, a seat with an integrated seat belt will have to sustain the loading due to both the seat mass and the seat belt load from the occupant. However, FMVSS No. 207 specifically exempts (at S.4.2) all bus passenger seats, including motorcoaches, except for small school bus passenger seats.

As earlier explained, our sled test program found that the forces experienced by the seat anchorages of a lap/shoulder belt seat could be as much as 48,569 N (10,918 lb). This is approximately 91 percent of the forces applied by the FMVSS No. 210 test procedure (53,376 N (12,000 lb), for a seat with two seating positions). The forces measured at the seat anchorages included the sum of the inertial loading from the seat as well as the seat belt loads from the dummy in our sled tests. We believe these forces are realistically captured by our proposed FMVSS No. 210 requirement, although at a lesser deceleration level than that specified by FMVSS No. 207 (10 *g* versus 20 *g*).

We note that the 20 *g* multiplier in FMVSS No. 207 for inertial loads is appropriate for the deceleration levels experienced by light passenger vehicles. However, as evidenced by our full-scale motorcoach crash, the motorcoach passenger seats only experience about half of this. Therefore, we believe the FMVSS No. 210 requirement that we are proposing for motorcoach seats will encompass the necessary requirements for ensuring that restraints integrated into seats are tested adequately and that the seat attachment is robust. For these reasons, we believe that the inertial loads regulated by FMVSS No. 207 have already been factored into our proposed FMVSS No. 210 loading requirements. Thus, additional FMVSS No. 207 requirements for motorcoach passenger seats are not needed.

b. Energy Absorption Capability of Seat Backs

After reviewing the data from the full scale crash test and the sled tests, NHTSA seeks comment on the energy absorbing capability of the seat backs of current motorcoaches to provide impact protection to occupants. Unbelted occupants in the sled tests, primarily 5th percentile female dummies, had HIC and Nij values in excess of IARVs when they struck the seat back in front of them. Additionally, in some sled tests the belted dummies interacted with the forward seat back when unbelted dummies in the rear seat struck their seat back, resulting in elevated HIC and Nij values to the belted dummies.[42]

While seat belts provide protection by retaining occupants in their seats in various crash scenarios, including rollovers, we would like to know whether there may be some potential for seat backs to become stiffer to accommodate the additional loads from seat belts. We are interested in information on specifications on force-deflection characteristics and/or impact deceleration characteristics for seat backs, that would help ensure that seat backs provide sufficient energy absorbing capability, to mitigate injuries to unbelted occupants while maintaining adequate protection to belted occupants. These specifications may also enhance protection for the belted occupant in the event of interaction with the front seat back. We seek comment on manufacturers' current use of padding on seat backs to improve protection for occupants aft of the seat back. Do manufacturers now design motorcoaches to meet seat back force deflection characteristics or padding specifications with occupant protection in mind?[43]

c. Retrofitting Used Buses

NHTSA considered proposing to require buses currently in use to be equipped (or retrofitted) with seat belts and seat belt anchorage strength required by this NPRM. The Secretary of Transportation has authority to promulgate safety standards for "commercial motor vehicles and equipment subsequent to initial manufacture."[44] The Office of the Secretary has delegated authority to NHTSA to: "promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture when the standards are based upon and similar to a [FMVSS] promulgated, either simultaneously or previously, under chapter 301 of title 49, U.S.C."[45] Additionally, the Federal Motor Carrier Safety Administration (FMCSA) is authorized to enforce the safety standards applicable to commercial vehicles operating in the U.S. While this NPRM does not set forth proposed regulatory text requiring buses "subsequent to initial manufacture" to be retrofitted with seat belts for the driver or passenger seating positions, we request information on several issues relating to retrofitting passenger seating positions on used motorcoaches.

We seek to know more about the technical and economic feasibility of a retrofit requirement. Motorcoach buses can have a service life of 20 years or longer. Based on our testing, we believe that significant strengthening of the motorcoach structure would be needed in order to accommodate the additional seat belt loading, particularly for those buses that have been in service longer. Thus, each motorcoach in service would likely require an individual structural assessment.[46] We believe this could be

[42] The belted dummies in our sled tests did not interact with the front seat backs and had lower HIC and Nij values when the dummy in the row behind was either restrained or not present.

[43] *See, e.g.,* the seat back force deflection and the impactor energy absorption test in ECE R.80 and the impactor test in ADR 68.

[44] Under Sec. 101(f) of Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159; Dec. 9, 1999).

[45] *See* 49 CFR Section 1.50(n).

[46] We note that during our roof strength testing conducted in February 2008, the seat anchorages of an older model motorcoach failed during an ECE R.66 type test. We believe this to be an example of the type of coach that is still in service, but would

a very complex and costly process for some motorcoaches, and in many cases, retrofitting with seat belts might not be structurally possible.

We note that in August 2009, the American Bus Association (ABA), Motor Coach Canada, Trailways Transportation System, Prevost Car (U.S.), Setra of North America, and National Seating Company submitted a position paper to the agency on the issue of retrofitting in service buses.[47] (In the interest of simplicity, we collectively refer below to submitters of this paper as the "ABA.") The ABA supported the installation of seat belts on newly manufactured motorcoaches, and supported a "voluntary retrofit requirement" for seat belts on existing motorcoaches, provided that, "(i) existing buses are structurally sound enough to support the enhancements that are necessary, (ii) the original bus manufacturer and/or other companies make viable 2 or 3 point [lap belt or lap/shoulder belt] retrofit kits available, and (iii) the cost of retrofitting the bus is within the technical and economic reach of many motorcoach operators."[48] The ABA further commented that any "retrofit performance standard" should allow for either lap or lap/shoulder belts to be installed. They stated that they believe the amount of rebuilding that would be necessary for motorcoaches that are already in service to be retrofitted with lap/shoulder belts would be cost prohibitive for many of the smaller motorcoach operating businesses, while lap belts could be integrated into existing seats with less difficulty and cost. ABA commented that lap belts, in conjunction with "energy absorbing seats and compartmentalization of the seating configuration" would provide significant safety benefits with regard to ejection mitigation and restricting occupant movement during a crash.

The ABA estimated that installation costs for retrofitting seat belts would range from $6,000 per vehicle for lap belts, to upwards of $60,000 per vehicle for lap/shoulder belts. The ABA reported that approximately 79 percent of the motorcoach carriers are small businesses operating fewer than 10 motorcoaches (with an average fleet size of 3 motorcoaches). Hence, we expect that motorcoach for-hire operators, many of which are small businesses, and/or operate the more structurally challenged motorcoaches, would bear the greatest impact by a seat belt retrofit requirement.

In September 2009, Greyhound Lines, Inc. (Greyhound) submitted independent comments on retrofitting seat belts on motorcoaches that are already in service, as well as provided their support for seat belts on newly manufactured motorcoaches.[49] Greyhound agreed with the ABA that any seat belt retrofitting should occur on a voluntary basis to ease the cost burden on the small business operators. However, it added that if NHTSA were to adopt a retrofit requirement, that requirement should exclusively require lap/shoulder belts and should establish a future date by which all motorcoaches operating in the U.S. must have seat belts installed that meet the new standards. Greyhound supported its view for retrofitting lap/shoulder belts by noting that the agency sled test research indicated that dummies restrained by lap belts generally exhibited more severe head and neck injuries than the unbelted dummies.

Given the agency's feasibility, cost, and small business concerns, and our knowledge that motorcoach structures can vary in construction and materials, we are seeking public comment in a number of areas to improve our understanding of the impacts of implementing a seat belt retrofit requirement on existing motorcoaches. We also include questions on enforceability since we are working closely with FMCSA to understand how a retrofit requirement might be enforced during periodic or routine commercial vehicle safety inspections, including those of motorcoaches crossing into the U.S. from Canada and Mexico.

Motorcoach Retrofit Requirements

1. Please explain why the agency should (or should not) consider a retrofit seat belt requirement for existing motorcoaches. Please discuss:

a. Should NHTSA consider developing technical standards for voluntarily retrofitting motorcoach passenger seats with seat belts?

b. In the absence of a requirement, how would the motorcoach industry self-regulate to facilitate the voluntary installation of belts on existing buses that are structurally sound enough to support the enhancements?

c. Are there other voluntary improvements that motorcoach operators would consider in improving occupant crash protection?

2. If a seat belt retrofit requirement were issued for existing motorcoaches, should operators be permitted to install lap belts instead of only lap/shoulder belts (*i.e.,* the ABA approach)? As explained above, ABA stated that they believe the amount of rebuilding necessary for motorcoaches that are already in service to be retrofitted with lap/shoulder belts would be cost prohibitive for many of the smaller motorcoach operating businesses, while lap belts could be integrated into existing seats with less difficulty and cost. ABA informed the agency that lap belts, in conjunction with "energy absorbing seats and compartmentalization of the seating configuration" would provide significant safety benefits with regard to ejection mitigation and restricting occupant movement during a crash. As noted above, Greyhound suggested that if NHTSA were to adopt a retrofit requirement, that requirement should exclusively require lap/shoulder belts.

In our test program, the lap belted dummies had elevated head and neck injury measures in the test conditions evaluated, compared to dummies restrained by lap/shoulder belts. Additionally, the motorcoach seats did not demonstrate "energy absorption" or "compartmentalization" characteristics during our tests.

However, lap belts could be effective in mitigating ejections in motorcoach rollover crashes, and some motorcoaches already on the road may have been originally manufactured such that a lap belt could be readily retrofitted to the seat, while a lap/shoulder belt could not be without significant structural modification and cost. NHTSA believes that lap/shoulder belts would provide superior protection compared to lap belts and should be required for new motorcoaches. However, considering the costs and other impacts on small businesses of retrofitting seat belts on used buses and the effectiveness of lap belts in preventing occupant ejection in rollover crashes, we ask for comments on whether requiring operators to install lap/shoulder belts would be appropriate if it is possible to retrofit lap belts to lap belt-ready seats. Comments are

need extensive modifications to meet the seat belt anchorage performance requirements. *See http://regulations.gov,* Docket no. NHTSA–2007–28793.

[47] *See http://regulations.gov,* Docket no. NHTSA–2007–28793–0020.

[48] Regarding ABA's "voluntary retrofit requirement," ABA's paper appears to suggest that NHTSA should not require motorcoaches currently in use to be retrofitted. The paper appears to be saying the decision to retrofit a bus should be voluntary on the part of industry, and operators that decide to install belts—after having considered the structural soundness of the bus, the availability of kits, and the cost of retrofitting—should be free to decide to install 2 point or 3 point belts. The paper also states that "a voluntary retrofit standard can provide guidance with regard to requisite performance levels" and that "any retrofit performance standard must allow for either 2 or 3 point belts * * * ."

[49] *See http://regulations.gov,* Docket no. NHTSA–2007–28793–0021.

requested on the associated safety implications.

3. What are the appropriate performance requirements for a retrofit lap belt or lap/shoulder belt approach? How would the strength of the anchorages be evaluated to determine if the performance requirements were met?

4. What lead time and phase-in issues should the agency consider for a retrofit requirement, and why?

a. How long would it take (in weeks) to retrofit a motorcoach with seat belts?

b. Should special lead-time and phase-in consideration be given for small businesses?

c. Would a retrofit requirement be more practicable if it were limited to only a portion of the fleet of motorcoaches currently in use? For example, should a retrofit requirement be applied only to vehicles manufactured less than five years prior to the effective date of the final rule? The appeal of doing so is that it might limit the requirement to motorcoaches encountering only five years worth of wear and tear. Further, it would apply a retrofit belt requirement to motorcoaches with the greatest amount of useable life ahead of them, as compared to the rest of the on-road motorcoach fleet. In addition, bounding the time frame would limit the impact of a retrofit requirement on small businesses, since such businesses are more likely to purchase used motorcoaches than new ones, and may be more likely than not to purchase or own motorcoaches that were produced prior to the proposed time frame of this example. Therefore, the agency is seeking information on the age of motorcoaches in the fleets owned by small businesses.

d. Comments are requested on other options the agency could take to identify portions of the on-road fleet to which a retrofit requirement should apply. Are there existing seats on motorcoaches that are "lap-belt ready," to which a lap belt can be attached that require no modification to the vehicle structure? How would the agency distinguish those seats from seats that are not seat-belt ready?

5. What are the risks to vehicle occupants in rollover and non-rollover crashes in the event of an improper retrofit installation?

Motorcoach Seat Anchorages

6. Do all motorcoach models share a common seat anchorage design? Please specify those that share a common design, by year and model.

7. Will any of the existing seat anchorages meet the FMVSS No. 210 strength requirements? Please specify which models, by year of manufacture.

8. What are the minimum steps necessary to retrofit a motorcoach with seat belts that comply with FMVSS No. 210? What structural changes would be necessary to make the seat anchorages accommodate the additional strength required for the addition of seat belts? Should FMVSS No. 210 strength requirements be reduced in stringency for retrofitted seat belts? What should those requirements be and should they apply to the retrofitted system?

9. We note that sometimes vehicle and equipment manufacturers will make retrofit kits available to consumers for the purpose of retrofitting existing vehicles with new equipment. Is it practical for motorcoach manufacturers to provide upgrade kits for each model with appropriate instructions so that installers can make the modifications? Please explain why or why not.

Cost to Retrofit

10. What is the total cost of retrofitting a motorcoach with seat belts? Please also provide a break-down of the following components:

a. Cost to modify the motorcoach structure to meet the FMVSS No. 210 seat anchorage requirements. Please specify by make/model of the existing motorcoach.

b. Cost to modify existing seat structures to accommodate seat belts. Please specify in terms of labor-hours, materials, and additional weight of the modifications by model and year of manufacture.

c. Cost difference between installing lap belts versus lap/shoulder belts.

d. Cost implications for taking a motorcoach out of service to be retrofitted (both for small and large businesses).

e. Cost of attaching lap belts to "seat-belt ready" seats (seats that can withstand the load of the occupant without structural modifications to the seat or vehicle).

f. Cost impacts from increased fuel usage for retrofitting lap belts or lap/shoulder belts on motorcoaches with and without seat-belt ready seats.

11. In the event that the motorcoach structure is insufficient as manufactured or has deteriorated to the extent that it cannot be modified to withstand the additional loads imposed by seat belts, what is the economic effect of the loss of that bus from the operator's fleet?

Enforcement of Retrofit Requirements

12. How can we assure that the modifications performed would meet FMVSS Nos. 208 and 210 requirements?

13. Would it be reasonable to require that each motorcoach be evaluated for structural integrity prior to performing modifications necessary for the installation of seat belts? Who would perform the structural evaluation? Would this evaluation in itself deteriorate the structural integrity?

14. Would it be reasonable to assess compliance with a retrofit requirement by means of only visually inspecting the vehicle? In what ways could we reasonably and effectively assess compliance with retrofit requirement?

d. School Buses

This rulemaking action should not be understood to suggest that we are considering proposing lap/shoulder belts in large school buses. NHTSA has recently decided against requiring seat belts on large school buses (over 4,536 kg (10,000 (lb)) GVWR. See 73 FR 62744, October 21, 2008, *supra.*

As discussed in the October 21, 2008 final rule, *supra,* requiring installation of seat belts on large school buses would increase school bus costs that the purchaser would have to bear. Those costs could result in fewer school buses used to transport children and more students having to use alternative, less safe means to get to school. Because data indicate that the safety need for seat belts on large school buses is low, and because the net effect on safety could be negative if the costs of purchasing and maintaining the seat belts and ensuring their correct use results in non-implementation or reduced efficacy of other pupil transportation programs that affect child safety, NHTSA does not believe that passenger seat belts should be required on large school buses. Instead, the agency believes that local school transportation planners should be given the ability to analyze the transportation risks particular to their needs, and to decide whether they wish to incur the cost of purchasing large school buses equipped with passenger seat belts.

VIII. Lead Time

If the proposed changes in this NPRM were made final, NHTSA proposes a three year lead time for new bus manufacturers to meet the new motorcoach seat belt requirements. We believe three years are necessary for the motorcoaches since some design, testing, and development will be necessary to certify compliance to the new requirements. NHTSA proposes that optional early compliance be permitted.

With regard to a possible retrofit requirement, we request comments on the approach of NHTSA's requiring the

belts be retrofitted on subject vehicles (*e.g.,* vehicles that are manufactured five or fewer years prior to the compliance date of the final rule) by a set future date (*e.g.,* three years after the compliance date of the final rule).

To illustrate such an approach, assume a final rule is published in 2011. Such an approach could require new motorcoaches manufactured on or after January 1, 2015 (the January 1 of the next year, three years after publication of the final rule; the "compliance date" of the final rule) to meet the requirements for new motorcoaches. The approach would require motorcoaches manufactured on or after January 1, 2010 to be retrofitted with seat belts, and meet the amendments for retrofitted buses, by January 1, 2018. Thus, as of January 1, 2018, all motorcoaches built after January 1, 2010 would have restraints.

IX. Overview of Costs and Benefits

Based on a 10 year average, there were 18.6 fatalities and 7,887 injuries to motorcoach occupants. We estimate that installing lap/shoulder seat belts on new motorcoaches would save 1–8 lives and prevent 144–794 injuries, depending upon the usage of lap/shoulder belts in motorcoaches.[50] The cost of adding lap/shoulder belts and making structural changes to the motorcoach floor would be approximately $12,900 per vehicle, with the total cost being $25.8 million for the 2,000 motorcoaches sold per year. Lifetime fuel costs due to an increased weight of the motorcoach would be an additional cost (estimated below). The cost per equivalent life saved is estimated to be $1.3 million to $9.9 million.

BENEFITS

Fatalities	1 to 8.
AIS 1 injuries (Minor)	92 to 506.
AIS 2–5 (Moderate to Severe)	52 to 288.
Total Non-fatal Injuries	144 to 794.

COSTS

[2008 Economics]

Per Vehicle	$12,900.
Total Fleet	$25.8 million.
Fuel Costs per Vehicle @ 3%.	$1,085 to $1,812.
Fuel Costs per Vehicle @ 7%.	$800 to $1,336.

COST PER EQUIVALENT LIFE SAVED

15% Belt usage	$7.4 to $9.9 mill.
83% Belt usage	$1.3 to $1.8 mill.
Breakeven Point in belt usage.	24%.

The cost of installing lap/shoulder belts on new motorcoaches is estimated as follows. The incremental cost of adding passenger seats with lap/shoulder belts on a 54 passenger motorcoach is approximately $9,900. The cost to change the seat anchorages and to reinforce the floor is approximately $3,000. We estimate that total cost of adding belts, changing the anchorages and reinforcing the floor is approximately $12,900. The agency has also estimated increased costs in fuel usage. The increased fuel costs depend on added weight (estimated to be 161 lbs or 269 lbs [51]) and the discount rate used. NHTSA estimates the increased costs in fuel usage for added weight and discounts the additional fuel used over the lifetime of the motorcoach using a 3 percent and 7 percent discount rate. See the PRIA for more details.

The agency has examined an alternative of adding a lap belt only as a substitute for lap/shoulder belts on motorcoaches. Real world data on light vehicles and sled testing with motorcoach seats both show that lap/shoulder belts are more effective than lap belts in reducing injuries and fatalities. Given the cost estimates and effectiveness estimates assumed, the breakeven point for lap belt use is 17 percent and for lap/shoulder belt use is 24 percent (a difference of 7 percentage points). The agency has found that lap/shoulder belt usage is 10 percentage points higher than lap belt usage in the rear seat of passenger cars. Assuming that this relationship would hold for motorcoaches, if lap/shoulder belt usage is 10 percentage points higher than lap belt usage, lap/shoulder belts would be more cost effective than lap belts. *See* the PRIA for more information.

We are not proposing at this time to require that used buses be retrofitted with the lap/shoulder belt system. The service life of a motorcoach can be 20 years or longer. We estimate that the cost of retrofitting can vary substantially. We estimate it could cost between $6,000 [52]–$34,000 per vehicle to retrofit the vehicle with lap belts and with sufficient structure to meet today's proposal. We also estimate it could cost $40,000 per vehicle to retrofit it with lap/shoulder belts and reinforced structure so as to meet FMVSS No. 210 to support the load of belted occupants during a crash.[53] The existing fleet size is estimated to be 29,325 motorcoaches. Hence, the fleet cost of retrofitting lap belts is estimated to range from $175,950,000 ($6,000 × 29,325) to $997,050,000 ($34,000 × 29,325), while the fleet cost of retrofitting lap/shoulder belts is estimated to be $1,173,000,000 ($40,000 × 29,325). These costs do not include increased remaining lifetime fuel costs incurred by adding weight to the motorcoach. Weight would vary depending upon the needed structural changes and lifetime fuel cost would vary depending upon the age of motorcoaches that would be retrofitted.

Retrofitting used motorcoaches may not be structurally viable for many motorcoaches and may not be economically feasible for many motorcoach for-hire operators, many of which are small businesses. However, we have included a comprehensive set of questions about retrofit in this preamble. The answers to those questions will aid us in determining whether to issue a separate supplemental NPRM (SNPRM) to require retrofit. If we issue such an SNPRM, we will assess the impact of the proposed rule on small entities in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and prepare and publish an initial regulatory flexibility analysis if appropriate.

X. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979) and determined that it is economically "significant," and also a matter of Congressional and public interest. Accordingly, the action was reviewed

[50] The PRIA assumes that the seat belt use rate on motorcoaches would be between 15 percent and the percent use in passenger vehicles, which was 83 percent in 2008. These annual benefits would accrue when all motorcoaches in the fleet have lap/shoulder belts.

[51] *See* PRIA for this NPRM. This estimate is based on preliminary results from a NHTSA contractor conducting cost/weight teardown studies of motorcoach seats. The weight added by 3-point lap/shoulder belts ranged from 5.96 to 9.95 pounds per 2-person seat. This is the weight only of the seat belt assembly itself and does not include changing the design of the seat, reinforcing the floor, walls or other areas of the motorcoach. The final cost and weight results from the study will be placed in the docket for this NPRM.

[52] This assumes that the motorcoach structure is lap belt-ready, and can accommodate the loads set forth in this proposal.

[53] As discussed elsewhere in this preamble, NHTSA has determined that the FMVSS No. 210 loads that this NPRM proposes for new motorcoach belt anchorages appear to be more stringent than ECE R.80 loads and more representative of the imparted loads measured at the seat belt anchorages in a motorcoach.

under the Executive Order. NHTSA has prepared a PRIA for this NPRM.[54]

This NPRM proposes: (1) To define the types of buses to which this NPRM would apply (*i.e.,* to provide a definition of "motorcoach"); (2) to require lap/shoulder belts for all passenger seating positions in motorcoaches; and (3) to require lap/shoulder belts for the driver's position on motorcoaches and on large school buses.

We estimate that installing lap/shoulder seat belts on new motorcoaches would save 1–8 lives and prevent 144–794 injuries. The total cost of adding seat belts and making structural changes to the motorcoach floor, and of lifetime fuel costs, would be approximately $27.4 million to $29.4 million. The cost per equivalent life saved is estimated to be $1.3 million to $9.9 million. The benefits, costs, and other impacts of this rulemaking are discussed at length in the PRIA.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. According to 13 CFR 121.201, the Small Business Administration's size standards regulations used to define small business concerns, motorcoach manufacturers would fall under North American Industry Classification System (NAICS) No. 336111, *Automobile Manufacturing,* which has a size standard of 1,000 employees or fewer. Using the size standard of 1,000 employees or fewer, NHTSA estimates that there are 5 large motorcoach manufacturers in the United States.

With regard to the amendments of a final rule applying to new motor vehicles, I hereby certify that if made final, this proposed rule would not have a significant economic impact on a substantial number of small entities. None of the U.S. motorcoach manufacturers and motorcoach seat manufacturers is a small business.

With regard to a retrofit requirement applying to a population of on-road vehicles, NHTSA is seeking information on the potential effects of a retrofit requirement on small businesses, small organizations, and small Government jurisdictions. This preamble and the PRIA for this NPRM have questions that would assist the agency in analyzing the potential impacts of a retrofit requirement on small businesses. An estimated 78.8 percent of the 3,137 motorcoach carriers in the United States in 2007 (or about 2,470 carriers) have less than 10 motorcoaches in their fleet, and an average of three motorcoaches and eleven employees. The documents request comments on the merits of applying a retrofit requirement to a limited population of on-road vehicles to minimize any significant economic impact on small entities, such as applying a retrofit requirement to only those motorcoaches manufactured after 2010, and/or only to motorcoaches that have seat-belt ready passenger seats, etc., and providing extra lead time for the vehicles to be retrofitted. Responses to those questions will assist the agency in deciding whether to proceed with a proposal to require on-road motorcoaches to be retrofitted with seat belts.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the proposed rule does not have sufficient federalism implications to warrant either consultation with State and local officials or preparation of a federalism summary impact statement. The proposed rule would not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government."

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision:

> When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.

49 U.S.C. 30103(b)(1).

Second, the Supreme Court has recognized the possibility, in some instances, of implied preemption of State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law. That possibility is dependent upon there being an actual conflict between a FMVSS and a State requirement. If and when such a conflict exists, the Supremacy Clause of the Constitution makes the State requirements unenforceable. *See Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000), finding implied preemption of state tort law on the basis of a conflict discerned by the court,[55] not on the basis of an intent to preempt asserted by the agency itself.[56]

NHTSA has considered the nature (*e.g.,* the language and structure of the regulatory text) and purpose of today's proposed rule and does not foresee any potential State requirements that might conflict with it. Without any conflict, there could not be any implied preemption of state law, including state tort law.

National Environmental Policy Act

NHTSA has analyzed this NPRM for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal

[54] NHTSA's PRIA is available in the docket for this NPRM and may be obtained by downloading it or by contacting Docket Management at the address or telephone number provided at the beginning of this document.

[55] The conflict was discerned based upon the nature (*e.g.,* the language and structure of the regulatory text) and the safety-related objectives of FMVSS requirements in question and the impact of the State requirements on those objectives.

[56] Indeed, in the rulemaking that established the rule at issue in this case, the agency did not assert preemption.

agency unless the collection displays a valid OMB control number. This rulemaking would not establish any new information collection requirements.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments." After carefully reviewing the available information, including standards from the European Union, Australia and Japan, NHTSA has determined that there are no voluntary consensus standards that we will be incorporating into this rulemaking. The reasons the agency has decided against adopting the international regulations regarding the performance of seat belt anchorages were discussed earlier in this preamble.

Executive Order 12988

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement. Pursuant to this Order, NHTSA notes as follows.

The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This NPRM would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This rulemaking is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. However, as previously explained, because children make up as much as 27 percent of motorcoach ridership, this NPRM, if made final, should have a beneficial safety effect on them.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

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).

XI. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon

receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the docket at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

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 check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See www.regulations.gov for more information.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.3 is amended by adding the definition "Motorcoach" in alphabetical order, to read as follows:

§ 571.3 Definitions.

* * * * *

Motorcoach means a bus with a gross vehicle weight rating (GVWR) of 11,793 kilograms (26,000 pounds) or greater, 16 or more designated seating positions (including the driver), and at least 2 rows of passenger seats, rearward of the driver's seating position, that are forward-facing or can convert to forward-facing without the use of tools. *Motorcoach* includes buses sold for intercity, tour, and commuter bus service, but does not include a school bus, or an urban transit bus sold for operation as a common carrier in urban transportation along a fixed route with frequent stops.

* * * * *

3. Section 571.208 is amended by redesignating the existing regulatory text of S4.4.3.1 as paragraph (a), adding paragraphs (b) and (c), and adding S7.1.6, to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.4.3.1

(a) * * *

(b) Each school bus with a gross vehicle weight rating greater than 4,536 kg (10,000 pounds) and each motorcoach, manufactured on or after [date 3 years after publication date of rule], must be equipped with a Type 2 seat belt assembly at the driver's designated seating position. The seat belt assembly must comply with FMVSS No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. The pelvic portion of a dual retractor Type 2 belt assembly installed in compliance with this requirement must include either an emergency locking retractor or an automatic locking retractor. If a seat belt assembly installed in compliance with this requirement includes an automatic locking retractor for the lap belt portion, that seat belt assembly must comply with paragraphs (a) through (c) of S4.4.2.2 of this standard. If a seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual must include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle must comply with S7.4.2(c) of this standard.

(c) Motorcoaches manufactured on or after [date 3 years after publication date of rule] must be equipped with a Type 2 seat belt assembly that is attached to the seat structure at every designated seating position for passengers other than a side-facing position. Side-facing designated seating positions must be equipped, at the manufacturer's option, with a Type 1 or Type 2 seat belt assembly. Seats with no other seats behind them, no wheelchair positions behind them, or side emergency doors behind them are excluded from the requirement that the seat belt anchorages must be attached to the seat structure. Seat belt assemblies at all designated seating positions for passengers must comply with paragraphs (a) through (c) of S7.1.1.5, S7.1.6 and S7.2 of this standard.

* * * * *

S7.1.6 *Motorcoach passenger seats.* The seat belt assemblies on motorcoach passenger seats will operate by means of any emergency-locking retractor that conforms to 49 CFR 571.209 to restrain persons whose dimensions range from those of a 50th percentile 6-year-old child to those of a 95th percentile adult male. The seat belt assemblies will operate in this manner with the seat back in any position.

* * * * *

Issued on: August 12, 2010.

Joseph S. Carra,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2010–20375 Filed 8–16–10; 11:15 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 75, No. 159
Wednesday, August 18, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 13, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Rural Economic Development Loan and Grant Program.

OMB Control Number: 0570–0035.

Summary of Collection: The information collected is necessary to implement Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940(c)) that established a loan and grant program. Rural Business Service (RBS) mission is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. Under this program, zero interest loans and grants are provided to electric and telecommunications utilities that have borrowed funds from RUS. The purpose of the program is to encourage these electric and telecommunications utilities to promote rural economic development and job creation projects such as business start-up costs, business expansion, community development, and business incubator projects.

Need and Use of the Information: RBS needs this collected information to select the projects it believes will provide the most long-term economic benefit to rural areas. The selection process is competitive and RBS has generally received more applications than it could fund. RBS also needs to make sure the funds are used for the intended purpose, and in the case of the loan, the funds will be repaid. RBS must determine that loans made from revolving loan funds established with grants are used for eligible purposes.

Description of Respondents: Not-for-profit Institutions; business or other for-profit;

Number of Respondents: 120.

Frequency of Responses: Reporting: On occasion, annually.

Total Burden Hours: 4,968.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–20492 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of revision of Privacy Act System of Records; republication.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Agriculture is republishing the Notice of Revision of the Privacy Act Systems of Records published in **Federal Register** Volume 75, Number 117 (Friday, June 18, 2010), FR Doc No. 2010–14714 to provide the amended Privacy Act Systems of Records document. The document was not published in its entirety. As a convenience to the public, we are republishing the entire Notice of Revision of the Privacy Act Systems of Records and providing a new 30-day comment period.

The purpose of the Notice of Revision is to revise one Privacy Act (PA) system of records and delete two systems of records maintained by the Agricultural Research Service (ARS).

DATES: Submit comments on or before September 17, 2010. This new system will be effective September 17, 2010.

ADDRESSES: You may submit comments to:

- Mail: Stasia Hutchison, FOIA/PA Officer, Agricultural Research Service, Research, Education, and Economic, Department of Agriculture, 5601 Sunnyside Avenue, Beltsville, MD 20705–5128;
- Fax: (301) 504–1647.

FOR FURTHER INFORMATION CONTACT: Stasia Hutchison, FOIA/PA Officer, Agricultural Research Service, Research, Education, and Economic, Department of Agriculture, 5601 Sunnyside Avenue, Beltsville, MD 20705–5128; Telephone (301) 504–1655; Facsimile (301) 504–1647; Electronic Mail *stasia.hutchison@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the PA, 5 U.S.C. 552a, USDA hereby takes the following action:

I. One system of records is being revised for the following reasons:

1. USDA/ARS–2, Research Medical Records System on Patients and Human Volunteers Participating in Research at the ARS Human Nutrition Research

Centers in Grand Forks, Beltsville, and San Francisco, USDA/ARS is being revised. The purpose of this revision to the system of records is to change the system designation from USDA/ARS–2 to USDA/ARS–1; identify changes in the system name, system location, and categories of individuals covered by the system; update the purpose, safeguards, retention and disposal, system manager and address, and record access procedures; modify the routine uses by adding three relating to security breaches, disclosure to National Archives and Records Administration, and disclosure to contractors; and to add the following sections: security classification, agency official responsible for system of records, disclosure to consumer reporting agencies, and exemptions claimed for the system.

II. Two systems are being deleted as follows:

1. USDA/ARS–1, Solicitation of Bids or Proposals for Procurement Contracts, is being deleted as the records no longer meet the requirements for a Privacy Act system of records. USDA/ARS–5, ARS Health and Fitness Center, is being deleted as the records are no longer relevant and necessary to accomplish a purpose of the Agency. The records no longer exist.

A Privacy Act Systems Report relating to the proposed changes was sent to the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; and Chairman, Committee on Oversight and Government Reform, U.S. House of Representatives on June 9, 2010.

Signed at Washington, DC, on August 11, 2010.

Thomas J. Vilsack,

Secretary of Agriculture.

USDA/ARS–1

SYSTEM NAME:

Agricultural Research Service—1 Research Medical Records System on Patients and Human Volunteers Participating in Research

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at the Agricultural Research Service (ARS) research centers and locations. A current list of centers and locations is available by writing to the National Program Leader, Human Nutrition, National Program Staff, ARS, U.S. Department of Agriculture (USDA), 5601 Sunnyside Avenue, Beltsville, MD 20705.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals participating in human research carried out by staff at ARS research centers and locations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and nutritional histories, medical and nutritional examinations, diagnostic and treatment data, social and economic data, clinical laboratory data, statistical summaries, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 2201, 7 U.S.C. 427, and 7 U.S.C. 3101 *et seq.*

PURPOSE(S):

The purpose of this Privacy Act system of records is to conduct research related to human dietary requirements at all stages of life. The results of this research are published in the scientific literature. Typically, research results are pooled from many individuals and individual information is not released or published.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be disclosed to:

1. The Department of Justice when (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation and, by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

2. A court or adjudicative body in a proceeding when (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation and, by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

4. Appropriate agencies, entities, and persons when (a) ARS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised, (b) the USDA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by USDA or another agency or entity) that rely upon the compromised information, and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

5. Records from this system of records may be disclosed to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. To agency contractors, grantees, experts, consultants, or volunteers who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

7. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional staff office made at the written request of the

constituent about whom the record is maintained.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in file folders or maintained electronically.

RETRIEVABILITY:

Records are retrievable by the name of the volunteer and a number assigned to the volunteer.

SAFEGUARDS:

Paper records are stored in locked rooms or locked file cabinets and electronic records are stored in secured databases. Access is restricted to authorized personnel only. The identity of the participant is kept in a separate file from the information and the information is associated with a blinded coded number.

RETENTION AND DISPOSAL:

Clinical and scientific records are retained and disposed of in conformance with the ARS Records Schedule, NCI–310–80–2, Item 200, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

National Program Leader, Human Nutrition, National Program Staff, ARS, USDA, 5601 Sunnyside Avenue, Beltsville, MD 20705.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters or component's Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.da.usda.gov/foia.htm* under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief FOIA Officer, Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief FOIA Officer, Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify the component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Any additional information that will help the FOIA staff determine which USDA component agency may have responsive records;
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records in this system come primarily from the volunteers, health care personnel, other hospitals and physicians, employers, and social agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

USDA/ARS–1, Solicitation of Bids or Proposals for Procurement Contracts, is being deleted as the records no longer meet the requirements for a Privacy Act system of records.

USDA/ARS–5, ARS Health and Fitness Center, is being deleted as the records are no longer relevant and necessary to accomplish a purpose of the Agency. The records no longer exist.

[FR Doc. 2010–20354 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension for a currently approved information collection in support of the program for 7 CFR part 4284, subpart J.

DATES: Comments on this notice must be received by October 18, 2010 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Deputy Administrator, Cooperative Programs, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 3250, Washington, DC 20250, Telephone: 202–720–7558.

SUPPLEMENTARY INFORMATION:

Title: Value-Added Producer Grants.

OMB Number: 0570–0039.

Expiration Date of Approval: January 31, 2011.

Type of Request: Extension of a currently approved information collection.

Abstract: The purpose of this information collection is to obtain information necessary to evaluate grant applications to determine the eligibility of the applicant and the project for the program and to qualitatively assess the project to determine which projects should be funded.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 39 hours per grant application.

Respondents: Independent producers, agriculture producer groups, farmer- or rancher-cooperatives, and majority-controlled producer-based business ventures.

Estimated Number of Respondents: 535.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Responses: 1,477.

Estimated Total Annual Burden on Respondents: 57,616 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0043.

Comments: Comments are invited on: (a) Whether the proposed collection of

information is necessary for the proper performance of the functions of the Rural Business-Cooperative Service, including whether the information will have practical utility; (b) the accuracy of the Rural Business-Cooperative Service's estimate of the burden of the proposed collection of information including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742.

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

Dated: August 11, 2010.

Judith Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2010–20431 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Contract Proposal (NOCP) for Payments to Eligible Advanced Biofuel Producers

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice to accept applications from previously excluded advanced biofuel producers and to modify the award methodology for remaining available Fiscal Year 2009 funds.

SUMMARY: The Agency published a document in the **Federal Register** of March 12, 2010 at 75 FR 11836 for the distribution of the remaining available Fiscal Year 2009 program funds under the Advanced Biofuel Payment Program. The March 12, 2010 Notice of Contract Proposal (NOCP) requested advanced biofuels producers determined eligible under the June 12, 2009, NOCP (74 FR 27998) to submit requests for additional payments in order to award the remaining available Fiscal Year 2009 program funds. This Notice opens an application window for certain applicants who were previously ineligible and adjusts the manner in which the Agency will allocate the remaining available Fiscal Year 2009 program funds to recipients.

DATES: Applications will be accepted from August 18, 2010 through September 17, 2010.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to USDA, Rural Development-Energy Division, Program Branch, Attention: Diane Berger, Advanced Biofuel Payment Program, 1400 Independence Avenue, SW., Stop 3225, Washington, DC 20250–3225. Telephone: 202–260–1508.

SUPPLEMENTARY INFORMATION:

Administrative Procedure Act Statement

On March 12, 2010, the Agency published a Notice of Contract for Proposal (NOCP) that, in part, requested advanced biofuels producers determined eligible under the June 12, 2009 NOCP (74 FR 27998) to submit a request for additional payment for facilities listed on their application in order to award remaining available Fiscal Year 2009 program funds. Such requests and awards would be made according to the criteria specified in the June 12, 2009 NOCP. Since the March 12, 2010 NOCP was published, the Agency has sought, received, and reviewed comments from the public regarding the program's eligibility requirements in conjunction with the April 16, 2010 (75 FR 20085) publication of the proposed rule for this program. Based on a consideration of these comments, the Agency has determined that it is in the best interests of furthering the Administration's goal of increasing the production of advanced biofuels to broaden the Advanced Biofuel Payment Program applicability to include making payments for eligible advanced biofuels produced at non-rural biofuel facilities and at foreign-owned biofuel facilities located in a State. For the purposes of this Notice, the term "biofuel facility" includes biorefineries that produce advanced biofuels.

Through this Notice, the Agency intends to make such producers of advanced biofuels eligible for the remaining available Fiscal Year 2009 program funds. To accomplish this, the Agency is opening a new application window from August 18, 2010 through September 17, 2010 to accept applications for payment under the Advanced Biofuel Payment program for only advanced biofuels produced at non-rural and/or foreign-owned biofuel facilities located in a State. The Agency will process applications received for non-rural and/or foreign-owned biofuel facilities under the March 12, 2010 NOCP unless the applicant provides a new application under this Notice. All other eligibility criteria in the June 12, 2009 NOCP are still applicable.

Furthermore, in order to make supplemental payments from the remaining available Fiscal Year 2009 program funds for non-rural and foreign-owned biofuel facilities, the Agency will distribute funds according to the following procedures:

1. For producers who requested the supplemental payment under the March 12, 2010 NOCP who met the eligibility criteria in that NOCP, the Agency will make advanced Fiscal Year 2009 supplemental payments equal to 25 percent of what those producers would have received based on the payment rate established under the March 12, 2010 NOCP.

2. For applicants submitting applications pursuant to this Notice, applicants only have to provide actual production with regard to base and incremental production amounts. Applicants are not required to submit projected base and incremental production for Fiscal Year 2009.

3. The Agency will then recalculate the payment rate for the Fiscal Year 2009 supplement payments based on the production of all eligible applicants, including the production from non-rural biofuel facilities and foreign-owned biofuel facilities.

4. The Agency will recalculate the final Fiscal Year 2009 supplemental payment to all eligible producers based on the recalculated payment rate and the production of all eligible applicants, including the production from non-rural biofuel facilities and foreign-owned biofuel facilities.

5. For all producers who receive an advanced Fiscal Year 2009 supplement payment under paragraph 1, the Agency will deduct the payment amount from the producer's final Fiscal Year 2009 supplemental payment and make any other adjustments necessary to reconcile the producer's final Fiscal Year 2009 supplemental payment with the payment established under paragraph 4.

Thus, every eligible producer, including non-rural and foreign-owned biofuel facilities, will receive their share of the remaining available Fiscal Year 2009 program funds that they would have received had the March 12, 2010 NOCP allowed producers with non-rural biofuel facilities and foreign-owned biofuel facilities to apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA), the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0057. The PRA burden associated with the June 12, 2009 NOCP was approved by OMB, with an opportunity to comment on the burden associated with the program. Since the publication of the June 12, 2009 NOCP, the Agency has not received a sufficient number of qualified applications to allocate all of the Fiscal Year 2009 authorized funds. Therefore, the Agency is opening a new application window to accept additional applications for the remaining available Fiscal Year 2009 program funds. Producers of advanced biofuels seeking funding under this program have to submit applications that include specified information, certifications, and agreements. Applications and accompanying materials required under this Notice are approved under OMB Control Number 0570–0057.

Non-Discrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance programs. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, *etc.*) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC, 20250–9410, or call (800) 795–3272 (voice) or (202) 720–6382 (TDD). USDA is an equal opportunity provider and employer.

Dated: August 12, 2010.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2010–20426 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Forest Service

Colville Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Colville Resource Advisory Committee will meet in Colville, Washington, for the purpose of evaluating and recommending resource management projects for funding in FY 2011, under the provisions of Title II of the Secure Rural Schools and Community Self-Determination Act of 2008 (Pub. L. 110–343).

DATES: The meeting will be held on June 22 and 23, 2010.

ADDRESSES: The meeting will take place at Colville Community College, Monumental Room, 985 South Elm Street, Colville, WA 99114.

Send written comments to Colville Resource Advisory Committee, c/o Franklin Pemberton, Colville National Forest, 765 South Main Street, Colville, WA 99114 or electronically to *fpemberton@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Laura Jo West, Designated Federal Official, c/o Colville National Forest, 765 South Main Street, Colville, WA 99114 or (509) 684–7000.

SUPPLEMENTARY INFORMATION: The agenda will include a review of fiscal year 2009 and 2010 Title II project proposals submitted by the Forest Service, the public, non-profits and other agencies, presentations by project proponents, and final recommendations for funding of fiscal year 2009 and 2010 projects.

All Colville Resource Advisory Committee Meetings are open to the public. Public input and comment forum will take place in the morning August 31, 2010. Interested citizens are encouraged to attend.

August 10, 2010.

Laura Jo West,

Designated Federal Officer.

[FR Doc. 2010–20260 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Madera County Resource Advisory Committee will be meeting in North Fork, California on August l8th and on September 15th. The purpose of these meetings will be to make decisions on how to accept and review project proposals for the next funding cycle as authorized under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110–343) for expenditure of Payments to States Madera County Title II funds.

DATES: The meetings will be held on August 18th, 2010 from 6:30 p.m. to 8:30 p.m. in North Fork, CA and September 15th, 2010 from 6:30 p.m. to 8:30 p.m. in North Fork, CA.

ADDRESSES: The meetings will be held at the Bass Lake Ranger District, 57003 Road 225, North Fork, California, 93643. Send written comments to Julie Roberts, Madera County Resource Advisory Committee Coordinator, c/o Sierra National Forest, Bass Lake Ranger District, at the above address, or electronically to *jaroberts@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Julie Roberts, Madera County Resource Advisory Committee Coordinator, (559) 877–2218 ext. 3159.

SUPPLEMENTARY INFORMATION: The meetings are open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Payments to States Madera County Title II project matters to the attention of the Committee may file written statements with the Committee staff before or after the meetings. Agenda items to be covered include: (1) Discussion of group priorities for types of projects, (2) Application Process, (3) discuss conditions and parameters for accepting future proposals, (4) Key dates and timelines.

Dated: August 9, 2010.

Dave Martin,

District Ranger.

[FR Doc. 2010–20022 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0125]

Privacy Act System of Records; National Animal Health Laboratory Network (NAHLN)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a proposed new system of records; request for comment.

SUMMARY: The U.S. Department of Agriculture (USDA) proposes to add a new Privacy Act system of records to its inventory of records systems subject to the Privacy Act of 1974, as amended, and invites public comment on this new records system. The system of records being proposed is the National Animal

Health Laboratory Network. This notice is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency. Although the Privacy Act requires only that the portion of the system that describes "routine uses" of the system be published for comment, USDA invites comment on all portions of this notice.

DATES: *Effective Date:* This system will be adopted without further notice on October 18, 2010 unless modified to respond to comments received from the public and published in a subsequent notice. Comments must be received, in writing, on or before September 17, 2010.

ADDRESSES: You may submit comments by either of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d-APHIS-2008-0125, and follow the instructions for submitting comments.

Postal Mail/Commercial Delivery: Docket No. APHIS–2008–0125, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Docket: You may view comments we receive at the Federal eRulemaking Portal (Web address above) or in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara M. Martin, National Animal Health Laboratory Network Coordinator, National Veterinary Services Laboratories, Veterinary Services, APHIS, 1800 Dayton Avenue, Ames, IA 50010; (515) 663–7731.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish in the **Federal Register** a notice of any new or revised system of records maintained by the agency. A system of records is a group of any records under the control of an agency, from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is proposing to add a new system of records, entitled National Animal Health Laboratory Network (NAHLN), which will be used to support activities conducted by the agency and maintain records pursuant to its missions and responsibilities authorized by the Animal Health Protection Act (7 U.S.C. 8301–8317); Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107–188); Homeland Security Presidential Directive-7; and Homeland Security Presidential Directive-9.

The purpose of NAHLN is to coordinate and network USDA's National Veterinary Services Laboratories with the capacity, facilities, professional expertise, and support of State and university laboratories. The network provides an extensive infrastructure of facilities, equipment, and personnel that are geographically accessible in the event of an animal health emergency.

APHIS uses the NAHLN to enhance early detection of foreign animal disease agents and newly emerging diseases, to better respond to animal health emergencies (including bioterrorist events) that threaten the nation's food supply and public health, and to assist in assessing the nation's animal health status through surveillance and shared animal health diagnostic data.

The NAHLN contains personally identifiable information about the owner of or person having primary responsibility for an animal undergoing testing in a networked laboratory. Such information includes name; address, including city, county, State, postal code; name of organization, telephone and fax numbers; and e-mail address.

The NAHLN also contains information about employees of the networked laboratories. Such information may include name, work address, position, telephone number, and e-mail address; emergency contact information; and proficiency test results. Routine uses of records maintained in the system, including categories of users and the purposes of such uses.

APHIS may disclose information in the NAHLN system to Federal or State animal health officials to aid in containing and responding to a foreign animal disease outbreak, bioterrorism, or other animal health emergency, to evaluate response and surveillance activities, or to disseminate information and solicit feedback on emergency preparedness guidelines and the system itself for the purpose of educating and involving these officials in program development, program requirements, and standards of conduct. Other routine uses of this information include releases related to investigations pertaining to violations of law or related to litigation. A complete listing of the routine uses for this system is included in the accompanying document that is published along with this notice.

The proposed information collection devices associated with the NAHLN system have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act.

Report on New System

A report on the new system of records, required by 5 U.S.C. 552a(r), as implemented by Office of Management and Budget Circular A–130, was sent to the Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; the Chairman, Committee on Oversight and Government Reform, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Dated: August 8, 2010.

Thomas J. Vilsack,

Secretary.

USDA–APHIS–#5

SYSTEM NAME:

National Animal Health Laboratory Network (NAHLN).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The data files for the NAHLN are maintained in the offices of Veterinary Services in Fort Collins, CO. A backup of the system is maintained at APHIS offices in Riverdale, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal, State, and university veterinary diagnostic laboratory personnel, State and Federal animal health officials, and owners of animals undergoing testing in a networked laboratory.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include laboratory identification, laboratory location, laboratory space, unique identifiers for laboratory submissions, purpose and reason for laboratory submissions, test methods, test equipment, test instruments, test results, and patient (animal) information.

For the owner or person having primary responsibility for an animal undergoing testing in a networked laboratory, the following information

will be retained: First, middle and last name; telephone number and fax numbers; street address, city, State, postal code, country; name of organization; and e-mail address.

The information retained for employees of the networked laboratories includes name, work address, position, telephone number and e-mail address; emergency contact information; and proficiency test results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Animal Health Protection Act, 7 U.S.C. 8301–8317; the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107–188); Homeland Security Presidential Directive-7; and Homeland Security Presidential Directive-9.

PURPOSES(S):

The purpose of NAHLN is to coordinate and network USDA's National Veterinary Services Laboratories with the capacity, facilities, professional expertise, and support of State and university laboratories. The network provides an extensive infrastructure of facilities, equipment, and personnel that are geographically accessible in the event of an animal health emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records maintained in the system may be disclosed outside USDA as follows:

(1) To Federal and State animal health officials to aid in containing and responding to a foreign animal disease outbreak, bioterrorism, or other animal health emergency;

(2) To cooperative Federal, State, and local government officials, employees, or contractors, and other parties engaged to assist in administering the program. This routine use assists the agency in carrying out the program, and thus is compatible with the purpose for which the records are created and maintained;

(3) To responsible Federal and State animal health officials to evaluate response and surveillance activities;

(4) To Federal and State animal health officials within the system to disseminate information and solicit feedback on emergency preparedness guidelines and the system itself for the purpose of educating and involving these officials in program development, program requirements, and standards of conduct;

(5) To the appropriate agency, whether Federal, State, local, or foreign, charged with responsibility of investigating or prosecuting a violation of law or of enforcing, implementing, or complying with a statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and either arising by general statute or particular program statute, or by rule, regulation, or court order issued pursuant thereto;

(6) To the Department of Justice when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, in litigation, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected;

(7) For use in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when the agency, or any component thereof, or any employee of the agency in his or her official capacity, or any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee, or the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation; provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected;

(8) To appropriate agencies, entities, and persons when the agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; the agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, a risk of identity theft or fraud, or a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by the agency or another agency or entity) that rely upon the compromised information; and the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the agency's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(9) To USDA contractors, partner agency employees or contractors, or private industry employed to identify patterns, trends or anomalies indicative of fraud, waste, or abuse; and

(10) To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape, optical disk, and mainframe. Paper records are maintained in offices that are locked after business hours and require the presentation of employee identification for admittance at all times. Backup media are taken weekly to an off-site storage facility and stored on tape.

RETRIEVABILITY:

Records are retrieved by the specimen identification number, a barcoded alphanumeric number representing the type of specimen; a laboratory submission identification number generated from the submitting laboratory's information management system; or by laboratory employee information such as name, work address, position, telephone number and e-mail address, emergency contact information, proficiency test results, and authorization to perform various tests.

SAFEGUARDS:

The NAHLN system is subject to management, operational, and technical controls. Such controls include role-based access based on assigned responsibility for animal health; data encryption during transmission; configuration management; and physical and environmental protections. Each user's access is restricted based on

the user's role, laboratory where employed, and region of assigned responsibility for animal health. All individuals provided access to the NAHLN system are required to complete annual information technology security awareness training.

RETENTION AND DISPOSAL:

Electronic records are currently retained within the system for 50 years. Electronic records stored on NAHLN computer hard drives are backed up nightly. Incremental and full system tape backups are retained for one month. Backup media is regularly sent to an off-site backup storage facility for contingency purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 58, Riverdale, MD 20737.

NOTIFICATION PROCEDURE:

Any individual may request general information regarding this system of records or information as to whether the system contains records pertaining to him/her from the system manager at the address above. All inquiries pertaining to this system should be in writing; must name the system of records as set forth in the system notice; and must contain the individual's name, telephone number, address, and e-mail address.

RECORD ACCESS PROCEDURES:

Any individual may obtain information from a record in the system that pertains to him or her. Requests for hard copies of records should be in writing, and the request must contain the requesting individual's name, address, name of the system of records, timeframe for the records in question, any other pertinent information to help identify the file, and a copy of his/her photo identification containing a current address for verification of identification. All inquiries should be addressed to the Freedom of Information and Privacy Act Staff, Legislative and Public Affairs, APHIS, 4700 River Road Unit 50, Riverdale, MD 20737–1232.

CONTESTING RECORD PROCEDURES:

Any individual may contest information contained within a record in the system that pertains to him/her by submitting a written request to the system manager at the address above. Include the reason for contesting the record and the proposed amendment to the information with supporting documentation to show how the record is inaccurate.

RECORD SOURCE CATEGORIES:

The information in the NAHLN comes primarily from USDA's National Veterinary Services Laboratories and State and university laboratories. Employee information is obtained primarily from the employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–20360 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Release Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 18, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Peter Cooper at (301) 713–2347 or *Peter.Cooper@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for review of a new information collection.

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSFMCA, 16 U.S.C. 1801 *et seq.*) the National Marine Fisheries Service (NMFS) is to ensure that conservation and management measures promote, to the extent practicable, implementation of scientific research programs that include the tagging and releasing of Atlantic highly migratory species (HMS). The proposed information collection would allow the public to submit volunteered geographic information relating to HMS releases in order to populate an interactive Web site mapping tool. This Web page could attract visitors who are interested in Atlantic HMS and would contain information and links to promote HMS tagging programs that the general public could support or in which they could become involved. All submissions would be voluntary. Information would be used to raise awareness for releasing Atlantic HMS and HMS tagging programs, and would not be used as representative results.

II. Method of Collection

Respondents may submit information via a fillable form available and submittable online, or via e-mail, fax, or mail.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission (request for review of a new information collection).

Affected Public: Individuals or households; businesses or other for-profit organizations; not-for-profit institutions; Federal government; and State, Local, or Tribal government.

Estimated Number of Respondents: 46,229.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 3,842.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

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 (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 12, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–20330 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–951]

Antidumping Duty Order: Certain Woven Electric Blankets From the People's Republic of China

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

DATES: *Effective Date:* August 18, 2010

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on certain woven electric blankets ("woven electric blankets") from the People's Republic of China ("PRC").

FOR FURTHER INFORMATION CONTACT: Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: 202–482–4406.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the "Act"), on July 2, 2010, the Department published *Certain Woven Electric Blankets From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 38459 (July 2, 2010) ("*Final Determination*"). Following the publication of the *Final Determination,* we received timely notice from Jarden Consumer Solutions ("Petitioner"), that the Department had made ministerial errors in its calculation of the antidumping duty margins for the mandatory respondent, Hung Kuo Electronics (Shenzen) Company Limited ("Hung Kuo"). After analyzing Petitioner's comments, the Department concluded that an inadvertent ministerial error was made in the calculation of Hung Kuo's margin. Therefore, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), on August 4, 2010, the Department published *Certain Woven Electric Blankets from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value,* 75 FR 46911 (August 4, 2010) ("*Amended Final Determination*"). In the *Amended Final Determination,* to correct this inadvertent ministerial error, we amended Hung Kuo's weighted average dumping margin from 77.75 percent to 93.09 percent and, as we did in the *Final Determination,* assigned Hung Kuo's new rate of 93.09 percent to the two separate rate companies—Ningbo V.K. Industry & Trading Co., Ltd. and Ningbo Jifa Electrical Appliances Co., Ltd./Ningbo Jinchun Electric Appliances Co., Ltd. The PRC-wide rate, 174.85 percent, was not changed from the *Final Determination. See Amended Final Determination* at 46911.

On August 10, 2010, the ITC notified the Department of its affirmative final determination of material injury to a U.S. industry. *See Woven Electric Blankets from China, Investigation No. 731–TA–1163 (Final),* USITC Publication 4177 (August 2010). Pursuant to section 736(a) of the Act, the Department is issuing the antidumping duty order on woven electric blankets from the PRC.

Scope of the Order

The scope of this order covers finished, semi-finished, and unassembled woven electric blankets, including woven electric blankets commonly referred to as throws, of all sizes and fabric types, whether made of man-made fiber, natural fiber or a blend of both. Semi-finished woven electric blankets and throws consist of shells of woven fabric containing wire. Unassembled woven electric blankets and throws consist of a shell of woven fabric and one or more of the following components when packaged together or in a kit: (1) Wire; (2) controller(s). The shell of woven fabric consists of two sheets of fabric joined together forming a "shell." The shell of woven fabric is manufactured to accommodate either the electric blanket's wiring or a subassembly containing the electric blanket's wiring (*e.g.,* wiring mounted on a substrate).

A shell of woven fabric that is not packaged together, or in a kit, with either wire, controller(s), or both, is not covered by this investigation even though the shell of woven fabric may be dedicated solely for use as a material in the production of woven electric blankets.

The finished, semi-finished and unassembled woven electric blankets and throws subject to this order are currently classifiable under subheading 6301.10.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, only the written description of the scope is dispositive.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of an exporter accounting for a significant proportion of exports of the subject merchandise, we extended the four-month period to no more than six months. *See Certain Woven Electric Blankets From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 5567 (February 3, 2010) ("*Preliminary Determination*"). In this investigation, the six-month period beginning on the date of the publication of the *Preliminary Determination* (*i.e.,* February 3, 2010) ended on August 2, 2010. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act, we have instructed U.S. Customs and Border Protection ("CBP") to terminate suspension of liquidation and to liquidate without regard to antidumping duties (*i.e.,* release all bonds and refund all cash deposits), unliquidated entries of woven electric blankets from the PRC entered, or withdrawn from warehouse, for consumption after August 2, 2010, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will continue on or after the date of publication of the ITC's final injury determination in the **Federal Register**.

Antidumping Duty Order

On August 10, 2010, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct CBP to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the

normal value of the merchandise exceeds the constructed export price of the merchandise for all relevant entries of woven electric blankets from the PRC. Except for the entries noted above,[1] these antidumping duties will be assessed on all unliquidated entries of woven electric blankets from the PRC entered, or withdrawn from the warehouse, for consumption on or after February 3, 2010, the date on which the Department published its *Preliminary Determination. See Preliminary Determination* at 5567.

Effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins listed below. *See* section 735(c)(3) of the Act. The "PRC-wide" rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter and producer	Weighted-average margin (percent)
Hung Kuo Electronics (Shenzhen) Company Limited	93.09
Produced by: Hung Kuo Electronics (Shenzhen) Company Limited	
Ningbo V.K. Industry & Trading Co., Ltd.	93.09
Produced by: Ningbo V.K. Industry & Trading Co., Ltd.	
Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd.	93.09
Produced by: Ningbo Jifa Electrical Appliances Co., Ltd. or Ningbo Jinchun Electric Appliances Co., Ltd.	
PRC–Wide Rate	174.85

This notice constitutes the antidumping duty order with respect to woven electric blankets from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: August 11, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–20496 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal from the People's Republic of China: Extension of Time for the Final Results of the Antidumping Duty Administrative Review

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

EFFECTIVE DATE: August 18, 2010.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4243.

Background

On April 21, 2010, the Department of Commerce ("the Department") published the preliminary results of this administrative review for the period April 1, 2008, to March 31, 2009. *See Magnesium Metal from the People's Republic of China: Preliminary Results of the 2008–2009 Antidumping Duty Administrative Review*, 75 FR 20817 (April 21, 2010). The final results of review are currently due on August 19, 2010.

Extension of Time Limits for the Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time period to a maximum of 180 days. Completion of the final results of the administrative review within the 120–day period is not practicable because the Department requires additional time to analyze information obtained at verification; analyze extensive surrogate value information, case and rebuttal briefs; and to hold a public hearing.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the final results of the administrative review to 180 days, until October 18, 2010, in accordance with section 751(a)(3)(A) of the Act.

We are publishing this notice pursuant to sections 751(a) and 777(i) of the Act.

Dated: August 10, 2010.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–20514 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Final Results and Final Rescission in Part

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

SUMMARY: On February 5, 2010, the Department of Commerce (Department) published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order on wooden bedroom furniture (WBF) from the People's Republic of China (PRC), covering the period January 1, 2008 through December 31, 2008.[1] Further, on April 28, 2010, the Department issued a memorandum addressing Nanjing Nanmu Furniture Co., Ltd.'s (Nanjing Nanmu) claim of no

[1] Namely, entries of woven electric blankets from the PRC entered, or withdrawn from warehouse, for consumption after August 2, 2010, and before the date of publication of the ITC's final injury determination in the **Federal Register**.

[1] *See Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part,* 75 FR 5952 (February 5, 2010) (*Preliminary Results*).

shipments.[2] Finally, on July 14, 2010, the Department issued a memorandum informing parties that the Department was reconsidering the valuation of wage rates.[3] We gave the interested parties an opportunity to comment on the *Preliminary Results.* After reviewing the interested parties' comments, we made changes to our calculations for these final results of the review. The final dumping margin for this review is listed in the "Final Results of the Review" section below.

DATES: *Effective Date:* August 18, 2010.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2769.

Background

Following publication of the *Preliminary Results,* on March 23, 2010, Great Rich (HK) Enterprises Co., Limited, Coronal Enterprises Co., Ltd., Dongguan Wanhengtong Industry Co., Ltd., Season Furniture Manufacturing Co., Ltd., and Season Industrial Development Co., Ltd. submitted comments in lieu of a formal case brief. Other interested parties, including Petitioners[4] and Fairmont,[5] submitted case and rebuttal briefs on April 9, 2010, and April 20, 2010, respectively. In addition, the Coalition[6] submitted a case brief on April 9, 2010. On April 28, 2010, we rejected a portion of Fairmont's rebuttal brief due to the inclusion of untimely new information. On April 30, 2010, Fairmont resubmitted its rebuttal brief with the new information excluded.

On April 28, 2010, the Department issued the Nanmu No Shipments Memo addressing Nanjing Nanmu's claim of no shipments.[7] On May 5, 2010, Petitioners submitted their case brief concerning Nanjing Nanmu. On May 10, 2010, Nannjing Nanmu submitted a rebuttal brief. On May 25, 2010, the Department extended the deadline for the final results of the instant administrative review to August 11, 2010.[8] On June 9, 2010, the Department received a letter from the PRC government commenting on the *Preliminary Results.* The Department responded to this letter on June 17, 2010.[9] On July 14, 2010, the Department issued the Wage Rate Notification. Interested parties submitted case and rebuttal briefs on July 19, 2010, and July 22, 2010, respectively. On July 29, 2010, pursuant to requests by Fairmont and Petitioners, the Department held a hearing.[10]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these reviews are addressed in the Memorandum from Edward C. Yang, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China," dated August 11, 2010, which is hereby adopted by this notice (Issues and Decision Memorandum). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit, Main Commerce Building, Room 1117, and is accessible on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on an analysis of the comments received, the Department has made certain changes in the margin calculations. For the final results, the Department has made the following changes:

Surrogate Values[11]

- We have valued TCSR's miscellaneous veneer using an average of Philippine imports of Harmonized Tariff Schedule (HTS) subheadings 4408.39.90 and 4408.31. *See* Comment 3 of the Issues and Decision Memorandum.
- We have valued Fairmont's plywood inputs based on Philippine imports of HTS subheading 4412.14. Because these imports are from 2007, we have inflated them. *See* Comment 4 of the Issues and Decision Memorandum.
- We have valued Fairmont's curve panel inputs based on Philippine imports of HTS subheading 9403.90. *See* Comment 5 of the Issues and Decision Memorandum.
- We have valued Fairmont's expanded polyethylene sheet inputs based on Philippine imports of HTS subheading 3921.19.19. *See* Comment 6 of the Issues and Decision Memorandum.
- We have valued Fairmont's purchased bon feet using Philippine imports under HTS subheading 4421.90.99. *See* Comment 7 of the Issues and Decision Memorandum.
- We have valued Fairmont's particle board inputs based on India's imports of HTS subheading 4410.11.10 and 4410.31. *See* Comment 21 of the Issues and Decision Memorandum.
- We have based the surrogate value of Fairmont's brokerage and handling charges on the World Bank's Doing Business in the Philippines Report. *See* Comment 22 of the Issues and Decision Memorandum.
- We have valued Fairmont's glass inputs based on Philippine imports of HTS subheading 7005.10.90, excluding the imports from Japan. *See* Comment 25 of the Issues and Decision Memorandum.
- We have valued Fairmont's water-based polymer isocyanate adhesive based on Philippine imports of HTS subheading 3506.91. *See* Comment 11 of the Issues and Decision Memorandum.
- We have valued Fairmont's inland freight expenses using Indian Infobanc data. *See* Comment 12 of the Issues and Decision Memorandum.
- We have revised the surrogate wage rate. *See* Comment 34 of the Issues and Decision Memorandum.
- We have recalculated surrogate financial ratios based on the record financial statements providing the best available information. *See* Comment 30

[2] *See* the April 28, 2010, Memorandum for Edward C. Yang, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations Regarding Claim of No Shipments (Nanmu No Shipments Memo).

[3] *See* the July 14, 2010, memorandum to the file entitled "Labor Wage Rate" (Wage Rate Notification).

[4] Petitioners include American Furniture Manufactures Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (Petitioners).

[5] Comprised collectively of Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd. (TCSR), Taicang Fairmount Designs Furniture Co., Ltd.; and, Meizhou Sunrise Furniture Co., Ltd. (Fairmont).

[6] Comprised of Coaster Company of America, Emerald Home Furnishings, LLC, Trade Masters of Texas, Inc. and Star International Furniture, Inc. (Coalition).

[7] *See* Nanmu No Shipments Memo.

[8] *See Wooden Bedroom Furniture from the People's Republic of China: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review,* 75 FR 29313 (May 25, 2010).

[9] *See* the June 30, 2010 memorandum to the file entitled "Correspondence between the Bureau of Fair Trade for Imports & Exports and Import Administration."

[10] See August 5, 2010 Transcript of the July 29, 2010 hearing.

[11] For all changes to surrogate values, *see* the August 11, 2009 Final Results Surrogate Value Memorandum.

of the Issues and Decision Memorandum.

Ministerial Errors [12]

- We have corrected coding errors in our calculation of the *Preliminary Results* and thereby incorporated all changes in the database submitted by Fairmont regarding its minor corrections to products for which it had previously weight-averaged certain fields based on the incorrect physical characteristic codes and control numbers. *See* Comment 10 of the Issues and Decision Memorandum.
- When converting Fairmont's consumption of poly vinyl chloride (PVC) veneer from square meters to kilograms, we have relied on a weighted-average measurement from all of Fairmont's period of review (POR) purchases of PVC veneer in its October 14, 2009 submission at Exhibit FD–SE–3D–49. *See* Comment 8 of the Issues and Decision Memorandum.
- We have applied the minor corrections reported by Fairmont at verification that were incorrectly applied to international freight and applied them to other transportation costs. *See* Comment 10 of the Issues and Decision Memorandum.
- We have valued marine insurance purchased from market economy suppliers in market economy prices for market economy purchases where Fairmont, not the seller, incurred this charge based on the amounts reported by Fairmont. *See* Comment 13 of the Issues and Decision Memorandum.
- For all CEP sales, we have included interest expenses in the indirect selling ratio only in the amount that it exceeded inventory carrying costs and credit expenses. *See* Comment 32 of the Issues and Decision Memorandum.
- We have included freight costs in the denominator of Fairmont's indirect selling ratio. *See* Comment 27 of the Issues and Decision Memorandum.
- We have removed the imports of HTS subheading 4421.90.99 with a unit of measure other than kilograms from the surrogate value calculation for pull knob wood, wood plugs, and bun feet. *See* Comment 28 of the Issues and Decision Memorandum.

Other Changes [13]

- For all CEP sales, we have calculated inventory carrying costs based only on the time period between entry date and the reported date of shipment to the customer. *See* Comment 29 of the Issues and Decision Memorandum.
- For those sales for which Fairmont did not know the actual entered value, we have estimated entered value based on Fairmont's submitted sales information. *See* Comment 17 of the Issues and Decision Memorandum.
- Because we have determined that they are not subject merchandise, we have removed all side tables from the calculation of the value of unreported sales. *See* Comment 31 of the Issues and Decision Memorandum.
- The Department has rescinded the review with respect to Shanghai Sunrise Furniture Co., Ltd. (Shanghai Sunrise) and Fairmont Designs and removed these companies' names from the companies listed under Fairmont's rate in the U.S. Customs and Border Protection (CBP) module. Reviews for these companies were initiated together with Dongguan Sunrise Furniture Co. and Taicang Sunrise Wood Industry Co., Ltd. However, the Department later determined that Shanghai Sunrise [14] no longer existed and Fairmont Designs was not located in the PRC.[15]
- We have determined that Nanjing Nanmu made unreported sales of subject merchandise during the POR, and as a result there is no basis to rescind the review with respect to Nanjing Nanmu. In addition, we have determined that Nanjing Nanmu did not demonstrate its eligibility for a separate rate. Thus, we are treating Nanjing Nanmu as part of the PRC-wide Entity and because of the failure of the PRC-wide Entity to cooperate to the best of its ability in reporting sales of subject merchandise we have applied adverse facts available (AFA) to this entity, which includes Nanjing Nanmu.[16]

Period of Review

The POR is January 1, 2008, through December 31, 2008.

Scope of the Order

The product covered by the order is WBF which is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,[17] highboys,[18] lowboys,[19] chests of drawers,[20] chests,[21] door chests,[22] chiffoniers,[23] hutches,[24] and armoires;[25] (6) desks, computer stands, filing cabinets, bookcases, or writing tables that are attached to or

[12] For all corrections to ministerial errors, *see* the August 11, 2009 Final Results Analysis Memorandum (Final Results Analysis Memo).

[13] For all other changes, *see* the Final Results Analysis Memo.

[14] *See* the October 8, 2009 memorandum to John Andersen entitled "Affiliation and Single Entity Status of Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang Fairmount Designs Furniture Co., Ltd., and Meizhou Sunrise Furniture Co., Ltd."

[15] *See* the February 1, 2010, memoranda entitled Verification at Cambium Business Group, Inc. (d.b.a. Fairmont) in the 4th Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China".

[16] *See* Issues and Decision Memorandum at Comment 33.

[17] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[18] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[19] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[20] A chest of drawers is typically a case containing drawers for storing clothing.

[21] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[22] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[23] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[24] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[25] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, bookcases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;[26] (9) jewelry armoires;[27] (10) cheval mirrors;[28] (11) certain metal parts;[29] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds [30] and (14) toy boxes.[31]

Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as "wooden * * * beds" and under subheading 9403.50.9080 of the HTSUS as "other * * * wooden furniture of a kind used in the bedroom." In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as "parts of wood" and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as "glass mirrors * * * framed." The order covers all WBF meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

[26] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. *See* Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

[27] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, dated August 31, 2004. *See also Wooden Bedroom Furniture from the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part,* 71 FR 38621 (July 7, 2006).

[28] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.,* a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part,* 72 FR 948 (January 9, 2007).

[29] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.,* wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.90.7000.

[30] Upholstered beds that are completely upholstered, *i.e.,* containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 72 FR 7013 (February 14, 2007).

[31] To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum "Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box," dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

Separate Rates

Companies Granted Separate Rates in the Preliminary Results

In the *Preliminary Results,* we stated that the following companies demonstrated their eligibility for separate-rate status: (1) Fairmont; (2) Longrange Furniture Co. Ltd.; (3) Langfang Tiancheng Furniture Co., Ltd.; (4) Tianjin Fortune Furniture Co., Ltd.; (5) Baigou Crafts Factory of Fengkai; (6) Zhongshan Gainwell Furniture Co. Ltd. For these final results, we continue to find that evidence placed on the record of this review demonstrates that these companies provided information that shows both a *de jure* and *de facto* absence of government control with respect to their respective exports of the merchandise under review and, thus, these companies are eligible for separate-rate status.

With respect to the following companies not selected for individual examination in this review: (1) Shun Feng Furniture Co., Ltd.; (2) COE Ltd.; (3) Transworld (Zhangzhou) Furniture Co. Ltd.; (4) Decca Furniture Ltd., aka Decca; (5) Dongguan Landmark Furniture Products Ltd.; (6) Winny Overseas, Ltd.; (7) Dongguan Yihaiwei Furniture Limited, we continue to grant a separate rate to these companies because these companies are wholly owned by individuals or companies located in a market economy. As wholly foreign-owned companies, we have no evidence indicating that these companies are under the control of the PRC. Therefore, a separate-rate analysis is not necessary to determine whether these companies are independent from government control.[32]

Since the *Preliminary Results,* no interested parties submitted comments regarding these findings. Therefore, for the final results, we have granted these companies a separate rate.

Companies Not Providing Separate Rate Certifications or Applications

The following 34 companies for which the Department initiated the instant review did not provide a separate rate certification or application and therefore have not demonstrated their eligibility for separate rate status in this administrative review:

- Best King International Ltd.
- Brother Furniture Manufacture Co., Ltd.

[32] *See Preliminary Results; see also Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104, 71104–05 (December 20, 1999) (where the Department determined that a respondent that was wholly foreign-owned qualified for a separate rate).

- BNBM Co., Ltd. (aka Beijing New Materials Co., Ltd.)
- Classic Furniture Global Co., Ltd.
- Der Cheng Wooden Works of Factory
- Dong Guan Golden Fortune Houseware Co., Ltd.
- Dongguan Chunsan Wood Products Co., Ltd., Trendex Industries Ltd.
- Dongguan Hua Ban Furniture Co., Ltd.
- Dongguan New Technology Import & Export Co., Ltd.
- Dongguan Sunpower Enterprise Co., Ltd.
- Ever Spring Furniture Co. Ltd., S.Y.C Family Enterprise Co., Ltd.
- Furnmart Ltd.
- Green River Wood (Dongguan) Ltd.
- Guangming Group Wumahe Furniture Co., Ltd.
- Hamilton & Spill Ltd.
- Hung Fai Wood Products Factory, Ltd.
- Hwang Ho International Holdings Limited
- Kalanter (Hong Kong) Furniture Company Limited
- King Kei Furniture Factory, King Kei Trading Co., Ltd., Jiu Ching Trading Co., Ltd.
- King Wood Furniture Co., Ltd.
- King's Way Furniture Industries Co., Ltd., Kingsyear Ltd.
- Profit Force Ltd.
- Shenyang Kunyu Wood Industry Co., Ltd.
- Shenzhen Dafuhao Industrial Development Co., Ltd.
- Sino Concord International Corporation
- Starwood Furniture Manufacturing Co. Ltd.
- Top Goal Development Co.
- Union Friend International Trade Co., Ltd.
- Wan Bao Chen Group Hong Kong Co. Ltd.
- Xingli Arts & Crafts Factory of Yangchun
- Yangchen Hengli Co., Ltd.
- Yichun Guangming Furniture Co., Ltd.
- Yongxin Industrial (Holdings) Limited
- Zhong Cheng Furniture Co., Ltd.

In the *Preliminary Results,* we also found that Inni Furniture and Shanghai Aosen Furniture Co., Ltd., a mandatory respondent, are part of the PRC–Wide entity. Since the *Preliminary Results,* no interested parties submitted comments regarding our findings regarding all 36 companies listed above. Therefore, for the final results, we continue to treat these entities as part of the PRC–Wide entity.

Since the *Preliminary Results,* we have determined that Nanjing Nanmu made unreported sales of subject merchandise.[33] Thus, we no longer find a basis to rescind the review with respect to Nanjing Nanmu. Further, Nanmu Nanjing did not provide a separate rate certification or application. Accordingly, we have determined that it is not eligible for a separate rate and we are treating Nanjing Nanmu as part of the PRC-wide entity.[34]

Adverse Facts Available (AFA)

In the *Preliminary Results,* we noted that in accordance with sections 776(a)(2)(B) and 782(c)(1) of the Act, the use of facts available is appropriate for the PRC-wide entity. The Department assigned the rate of 216.01 percent, the highest rate on the record of any segment of the proceeding to all companies classified under the PRC-wide entity, as AFA.[35] As no interested party commented on this determination regarding the PRC-wide entity, we have made no changes from our *Preliminary Results* with respect to this issue. In addition, the Department has determined that Nanjing Nanmu's actions, as part of the PRC-wide entity, provide an additional basis to apply AFA to the PRC-wide entity.[36] In failing to report these sales to the Department, the PRC-wide Entity, which includes Nanjing Nanmu, withheld necessary information within the meaning of section 776(a) of the Act and failed to cooperate to the best of its ability within the meaning of section 776(b) of the Act.[37]

Also in the *Preliminary Results,* we determined that Fairmont failed to report certain sales and thus withheld necessary information within the meaning of section 776(a) of the Act and failed to act to the best of its ability to comply with the Department's requests for information within the meaning of section 776(b) of the Act regarding certain sales and factors of production information for subject merchandise. We therefore applied AFA to its unreported sales, pursuant to section 776(b) of the Act. As partial AFA, we applied to the unreported sales a margin of 216.01 percent. Parties commented both on our decision to apply AFA and on our choice of which AFA rate to apply to Fairmont. After considering these comments, we have continued to apply as AFA to Fairmont's unreported sales a margin of 216.01 percent.[38]

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[39] Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.[40] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.[41] Independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review.[42]

The 216.01 AFA rate that the Department is using in this review is a company-specific rate calculated in the *2004–2005 New Shipper Review* of the WBF order.[43] No additional information has been presented in the current review which calls into question the

[33] *See* Issues and Decision Memorandum at Comment 33.

[34] *See* Issues and Decision Memorandum at Comment 33.

[35] *See Preliminary Results.*

[36] *See* Issues and Decision Memorandum at Comment 33.

[37] *See generally,* Issues and Decision Memorandum at Comment 33.

[38] *See* Issues and Decision Memorandum at Comment 33.

[39] *See SAA* at 870.

[40] *See id.*

[41] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997)).

[42] *See* the SAA at 870; *Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan,* 68 FR 35627, 35629 (June 16, 2003) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan,* 68 FR 62560 (November 5, 2003)).

[43] *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004–2005 Semi-Annual New Shipper Reviews,* 71 FR 70739, 70741 (December 6, 2006)(*2004–2005 New Shipper Review*).

reliability of the information. Thus, we have determined this information continues to be reliable. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin.[44] Similarly, the Department does not apply a margin that has been discredited.[45] To assess the relevancy of the rate used, the Department compared the transaction-specific margins calculated for Fairmont in the instant administrative review with the 216.01 percent rate calculated in the *2004–2005 New Shipper Review* and found that the 216.01 percent margin was within the range of the margins calculated on the record of the instant administrative review. Because the dumping margins used to corroborate the AFA rate do not reflect unusually high dumping margins relative to the calculated rates determined for the cooperating respondent, the Department is satisfied that the dumping margins used for corroborative purposes reflect commercial reality because they are based upon real transactions that occurred during the POR, were subject to verification by the Department, and were sufficient in number both in terms of the number of sales and as a percentage of total sales quantity.[46]

Since the 216.01 percent margin is within the range of transaction-specific margins on the record of this administrative review, the Department has determined that the 216.01 percent margin continues to be relevant for use as an AFA rate for the PRC-wide entity in this administrative review. Also, because this rate is within the range of Fairmont's transaction-specific margins in this review, we find the rate relevant as applied to Fairmont's unreported sales.

As the adverse margin is both reliable and relevant, the Department has determined that it has probative value. Accordingly, the Department has determined that this rate meets the corroboration criterion established in section 776(c) of the Act. Fairmont has raised arguments with respect to the reliability and relevance of this rate as applied to Fairmont, which are addressed in the accompanying Issues and Decision Memorandum at Comment 31.

Final Partial Rescission of Administrative Review

In the *Preliminary Results,* the Department announced its intent to rescind the administrative review with respect to the following companies because they all reported that they had made no shipments during the POR.

- Dalian Pretty Home Furniture.
- Dongguan Dihao Furniture Co., Ltd.
- Dongguan Mingsheng Furniture Co., Ltd.
- Dongguan Mu Si Furniture Co., Ltd.
- Dongguan Sunshine Furniture Co., Ltd.
- Fortune Furniture Ltd., Dongguan Fortune Furniture Ltd.
- Foshan Guanqiu Furniture Co., Ltd.
- Fujian Lianfu Forestry Co., Ltd., a.k.a. Fujian Wonder Pacific Inc. (Dare Group)
- Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group)
- Gaomi Yatai Wooden Ware Co., Ltd., Team Prospect International Ltd., Money Gain International Co.
- Golden Well International (HK), Ltd.
- Guangdong New Four Seas Furniture Manufacturing Ltd.
- Guangzhou Lucky Furniture Co. Ltd.
- Jiangsu Dare Furniture Co., Ltd. (Dare Group)
- Macau Youcheng Trading Co., Zhongshan Youcheng Wooden Arts & Crafts Co., Ltd.
- Nantong Yangzi Furniture Co., Ltd.
- Po Ying Industrial Co.
- Qingdao Beiyuan-Shengli Furniture Co., Ltd., Qingdao Beiyuan Industry Trading Co. Ltd.
- Qingdao Shengchang Wooden Co., Ltd.
- Shanghai Fangjia Industry Co., Ltd.[47]
- Shenzhen Shen Long Hang Industry Co., Ltd.
- Tianjin First Wood Co., Ltd.
- Winmost Enterprises Limited.
- Yeh Brothers World Trade, Inc.[48]
- Zhangzhou XYM Furniture Product Co., Ltd.

We confirmed these companies' claims by issuing a no-shipment inquiry to CBP and examining electronic CBP data. Our examination of shipment data from CBP for the above companies provided no indication that there were no entries of subject merchandise during the POR exported by these companies. We received no response from CBP regarding our no-shipment inquiry, which supports the companies' no-shipment certification. No other parties commented on our preliminary intent to rescind. Thus, there is no information or argument on the record of the current review that warrants reconsidering our preliminary decision to rescind. Therefore, we are rescinding this administrative review with respect to above-listed companies.

Final Results of the Review

We determine that the following weighted-average percentage margins exist for the POR:

Exporter	Antidumping duty percent margin
Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang Fairmount Designs Furniture Co., Ltd., and Meizhou Sunrise Furniture Co., Ltd	43.23
Longrange Furniture Co., Ltd	43.23
Langfang Tiancheng Furniture Co., Ltd	43.23
Shun Feng Furniture Co., Ltd	43.23
COE Ltd	43.23
Tianjin Fortune Furniture Co., Ltd	43.23

[44] *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

[45] *See D&L Supply Co.* v. *United States,* 113 F.3d 1220, 1221 (Fed. Cir. 1997) (ruling that the Department will not use a margin that has been judicially invalidated).

[46] *See* the August 11, 2009 Corroboration Memorandum.

[47] Shanghai Fangjia's only sales made during the POR were covered by a new shipper review covering the period January 1, 2008, through June 30, 2008 and thus are not subject to this review. *See Wooden Bedroom Furniture From the People's Republic of China: Final Results of New Shipper Review,* 74 FR 48905 (September 25, 2009).

[48] *See* the memorandum to Abdelali Elouaradia Director, Office 4 regarding the "2008 Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China (PRC): Whether to Rescind the Review with Respect to Yeh Brothers World Trade, Inc." dated November 13, 2009 (in which the Department indicated that it intended to rescind the instant review with respect to Yeh Brothers).

Exporter	Antidumping duty percent margin
Transworld (Zhangzhou) Furniture Co. Ltd	43.23
Decca Furniture Ltd., aka Decca	43.23
Dongguan Landmark Furniture Products Ltd	43.23
Winny Overseas, Ltd	43.23
Dongguan Yihaiwei Furniture Limited	43.23
Baigou Crafts Factory of Fengkai	43.23
Zhongshan Gainwell Furniture Co. Ltd	43.23
PRC–Wide Entity [49]	216.01

Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated exporter/importer- (or customer) -specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer- (or customer) -specific assessment rate is *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash-Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rates shown for those companies; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 216.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing these final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 11, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

Comment 1: Electricity
Comment 2: Water
Comment 3: Miscellaneous Veneer
Comment 4: Plywood
Comment 5: Curve Panel
Comment 6: Expanded Polyethylene Sheet
Comment 7: Bon Feet
Comment 8: Poly Vinyl Chloride Veneer
Comment 9: Name Corrections
Comment 10: Ministerial Errors
Comment 11: Water-Based Polymer Isocyanate
Comment 12: Inland Freight
Comment 13: Marine Insurance
Comment 14: Indirect Selling Expenses
Comment 15: Gross vs. Net Weight
Comment 16: Shipment Basis for Valuing Inputs
Comment 17: Assessment Rates
Comment 18: Identification in the Customs Module
Comment 19: Combination Rates
Comment 20: Duty Absorption with Regard to the Separate Rate Respondents
Comment 21: Particle Board
Comment 22: Brokerage and Handling
Comment 23: Veneered Boards
Comment 24: Treatment of Negative Margins
Comment 25: Glass
Comment 26: Freight Revenue
Comment 27: Calculation of the Indirect Selling Ratio
Comment 28: Unit of Measure for HTS Subheading 4421.90.99

[49] As noted above, Shanghai Aosen Furniture Co., Ltd., a mandatory respondent, Inni Furniture, and Nanjing Nanmu are part of the PRC-wide entity.

Comment 29: Inventory Carrying Costs for Direct Shipments
Comment 30: Financial Ratios
Comment 31: Unreported Sales
Comment 32: Credit Expenses and Inventory Carrying Costs
Comment 33: Nanjing Nanmu
Comment 34: Labor

[FR Doc. 2010–20499 Filed 8–17–10; 8:45 am]
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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–840]

Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part

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

DATES: *Effective Date:* August 18, 2010.

SUMMARY: On April 13, 2010, the Department of Commerce published its preliminary results of the administrative review of the antidumping duty order on certain orange juice from Brazil. This review covers two producers/exporters of the subject merchandise to the United States. The period of review (POR) is March 1, 2008, through February 28, 2009.

After analyzing the comments received, we have made certain changes in the margin calculations. Therefore, these final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

Finally, we have determined not to revoke the antidumping duty order with respect to certain orange juice from Brazil produced and exported by Sucocitrico Cutrale, S.A. (Cutrale).

FOR FURTHER INFORMATION CONTACT: Hector Rodriguez or Blaine Wiltse, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0629 or (202) 482–6345, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 13, 2010, the Department published in the **Federal Register** the preliminary results of administrative review of the 2008–2009 antidumping duty order on certain orange juice from Brazil. *See Certain Orange Juice from Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part,* 75 FR 18794 (Apr. 13, 2010) (*Preliminary Results*).

We invited parties to comment on our preliminary results of review. In May 2010, we received case and rebuttal briefs from the petitioners (*i.e.,* Florida Citrus Mutual, A. Duda & Sons, Citrus World Inc., and Southern Gardens Citrus Processing Corporation). We also received case briefs from both respondents (*i.e.,* Fischer S.A. Comercio, Industria, and Agricultura (Fischer) and Cutrale).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The scope of this order includes certain orange juice for transport and/or further manufacturing, produced in two different forms: (1) Frozen orange juice in a highly concentrated form, sometimes referred to as frozen concentrated orange juice for manufacture (FCOJM); and (2) pasteurized single-strength orange juice which has not been concentrated, referred to as not-from-concentrate (NFC). At the time of the filing of the petition, there was an existing antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. *See Antidumping Duty Order; Frozen Concentrated Orange Juice from Brazil,* 52 FR 16426 (May 5, 1987). Therefore, the scope of this order with regard to FCOJM covers only FCOJM produced and/or exported by those companies which were excluded or revoked from the pre-existing antidumping order on FCOJ from Brazil as of December 27, 2004. Those companies are Cargill Citrus Limitada, Coinbra-Frutesp (SA), Cutrale, Fischer, and Montecitrus Trading S.A.

Excluded from the scope of the order are reconstituted orange juice and frozen concentrated orange juice for retail (FCOJR). Reconstituted orange juice is produced through further manufacture of FCOJM, by adding water, oils and essences to the orange juice concentrate. FCOJR is concentrated orange juice, typically at 42 Brix, in a frozen state, packed in retail-sized containers ready for sale to consumers. FCOJR, a finished consumer product, is produced through further manufacture of FCOJM, a bulk manufacturer's product.

The subject merchandise is currently classifiable under subheadings 2009.11.00, 2009.12.25, 2009.12.45, and 2009.19.00 of the Harmonized Tariff Schedule of the United States (HTSUS). These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive. Rather, the written description of the scope of the order is dispositive.

Period of Review

The POR is March 1, 2008, through February 28, 2009.

Determination Not To Revoke Order, In Part

The Department may revoke, in whole or in part, an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia,* that a company requesting revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than normal value (NV) in the current review period and that the company will not sell subject merchandise at less than NV in the future; (2) a certification that the company sold commercial quantities of the subject merchandise to the United States in each of the three years forming the basis of the request; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider: (1) Whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than NV; and (3) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping. *See* 19 CFR 351.222(b)(2)(i).

As we noted in the *Preliminary Results,* on March 31, 2009, Cutrale requested revocation of the antidumping duty order with respect to its sales of subject merchandise, pursuant to 19 CFR 351.222(b). This request was accompanied by certification that: (1) Cutrale sold the subject merchandise at not less than NV during the current POR and will not sell the merchandise at less

than NV in the future; and (2) it sold subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. Cutrale also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the revocation, it sold the subject merchandise at less than NV. *See Preliminary Results,* 75 FR at 18795.

After analyzing Cutrale's request for revocation, we find that it does not meet all of the criteria under 19 CFR 351.222(b). In this case, our margin calculation shows that Cutrale sold the subject merchandise at less than NV during the current review period. *See* "Final Results of the Review" section below. Moreover, Cutrale also sold the subject merchandise at less than NV in the 2007–2008 administrative review. *See Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review,* 74 FR 40167 (Aug. 11, 2009). Therefore, we determine that Cutrale does not qualify for revocation of the order on certain orange juice pursuant to 19 CFR 351.222(b)(2), and as a result we have not revoked the order with respect to merchandise produced and exported by Cutrale. For further discussion, see the Issues and Decision Memorandum (the Decision Memo) at Comment 6.

Cost of Production

As discussed in the preliminary results, we conducted an investigation to determine whether Cutrale and Fischer made home market sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b) of the Act. *See Preliminary Results.* For these final results, we performed the cost test following the same methodology as in the *Preliminary Results,* except as discussed in the Decision Memo.

We found 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(1) and (2) of the Act.

Therefore, for purposes of these final results, we found that Cutrale and Fischer made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for each respondent and used the remaining sales (if any) as the basis for determining NV, pursuant to section 773(b)(1) of the Act. Where there were no home market sales made in the ordinary course of trade, we based NV on constructed value.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes to the margin calculations. These changes are discussed in the relevant sections of the Decision Memo.

Final Results of Review

We determine that the following weighted-average margin percentages exist for the period March 1, 2008, through February 28, 2009:

Manufacturer/exporter	Percent margin
Fischer S.A. Comercio, Industria, and Agricultura	5.26
Sucocitrico Cutrale, S.A	8.13

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.

We have calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate is above *de minimis* (*i.e.,* less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of certain orange juice from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.51 percent, the all-others rate established in the LTFV investigation. *See Antidumping Duty Order: Certain Orange Juice from Brazil,* 72 FR 12183 (Mar. 9, 2006). These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent

assessment of double antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: Dated: August 11, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Offsetting of Negative Margins
2. Capping of Certain Revenues Received by Cutrale by the Amount of Reported Expenses
3. Clerical Error in Cutrale's Dumping Margin
4. Use of Actual Brix to Calculate the Prices and Quantities for Cutrale's U.S. Sales
5. Use of Actual Brix for Comparison Purposes for Cutrale's Home Market Sales
6. Request for Revocation by Cutrale
7. Constructed Export Price Offset for Cutrale
8. Cutrale's Cost of Oranges from Affiliated Parties
9. Cutrale's By-Product Revenue Offset to Cost of Goods Sold (COGS)
10. Cutrale's Other Adjustments to COGS to Reflect Adjustments to the Cost of Manufacture
11. Fischer's International Freight Expenses
12. Net Exchange Variation for Fischer
13. Fischer's Intercompany Interest Expenses
14. Offset to Intercompany Interest Expenses for Fischer's Financial Expenses
15. Market Prices for the Sale of Certain By-Products for Fischer
16. Fischer's Unrealized and Eradication Expenses

[FR Doc. 2010–20493 Filed 8–17–10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper and Grouper Off the Southern Atlantic States

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Gulf and South Atlantic Fisheries Foundation, Inc. If granted, the EFP will authorize the applicants, with certain conditions, to collect limited numbers of fish and invertebrates where possession and retention is restricted or prohibited by regulations in South Atlantic Federal waters. This study is intended to characterize catch and discard mortality within the South Atlantic commercial hook-and-line snapper-grouper fishery.

DATES: Comments must be received no later than 5 p.m., eastern time, on September 17, 2010.

ADDRESSES: You may submit comments on the application by any of the following methods:

- E-mail: *Steve.Branstetter@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: "FND__EFP".
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727–824–5308.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–824–5305; fax: 727–824–5308; e-mail: *Steve.Branstetter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The described research is part of the Cooperative Research Program. The Cooperative Research Program is a means of involving commercial and recreational fishermen in the collection of fundamental fisheries information. Resource collection efforts support the development and evaluation of fisheries management and regulatory options.

The proposed collection for scientific research involves activities otherwise prohibited by regulations at 50 CFR 622 implementing the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. The applicant requires authorization to collect limited numbers of snapper and grouper and other marine resources, where possession and retention is otherwise restricted or prohibited by regulations, for scientific research activities for a 24–month period beginning September 2010. Specimens would be collected from Federal waters off the east coast of Florida and Federal waters off the coasts of Georgia, South Carolina, and North Carolina. Sampling would occur during normal fishing operations of the commercial snapper-grouper vertical hook-and-line fishery. Sampling would occur year-round, collecting as many as 500 fish during the course of the sampling. Data collections for this study would support improved information about the catch, bycatch, discards, and discard mortality for species in the snapper-grouper complex. These data would provide insight on a stock's resilience to fishing, and would help refine estimates of long-term biological productivity of the stocks. Currently, these data are unavailable, and it is anticipated that project results would yield valuable data within this fishery.

NMFS finds this application warrants further consideration. Based on a preliminary review, NMFS intends to issue an EFP. The limited sampling program and associated sampling methodology listed in the EFP is not expected to impact the fishery stocks; the estimated 500 fish to be retained in the 2–year period represents a small fraction of the average annual landings. Similarly, the sampling program is not expected to have an impact on marine mammals or threatened or endangered species or their critical habitat in any manner that has not been considered in the 2006 biological opinion, the 2007 consultation regarding *Acropora*, and the 2008 listing of *Acropora* critical habitat, in regard to the existing fishery management plan. The biological opinion specifically addresses the impacts associated with EFPs. It considers fishing activities authorized under an EFP within the scope of the opinion, if those activities do not significantly increase the overall fishing effort within the fishery, and fishing is conducted by commercial or research vessels, using similar or identical

fishing methods to those employed in the fishery.

Possible conditions the agency may impose on this permit, if it is indeed granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, or special management zones, without additional authorization. Additionally, NMFS may prohibit the possession of Nassau or goliath grouper, and require any sea turtles taken incidentally during the course of fishing or scientific research activities to be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water. The applicant's field personnel are considered designated agents of NMFS while conducting work under a NMFS-funded research grant. They are authorized to handle sea turtles encountered during the course of this study. A final decision on issuance of the EFP will depend upon a NMFS review of public comments received on the application, consultations with the affected states, the South Atlantic Fishery Management Council, and the U.S. Coast Guard, and a determination that it is consistent with all applicable laws.

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

Dated: August 13, 2010.

James P. Burgess,

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

[FR Doc. 2010–20516 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY23

Fisheries of the South Atlantic and Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Assessment Webinar 6 for SEDAR 22 Yellowedge Grouper and Tilefish

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

ACTION: Notice of SEDAR 22 Gulf of Mexico yellowedge grouper and tilefish assessment webinar 6.

SUMMARY: The SEDAR 22 assessments of the Gulf of Mexico stocks of yellowedge grouper and tilefish will consist of a series of workshops and webinars: a Data Workshop, a series of Assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The fifth SEDAR 22 Assessment Process webinar will be held on Wednesday, September 1, 2010, from 12 noon to approximately 4 p.m. (EDT). The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie Neer at SEDAR to request an invitation providing webinar access information.

A listening station will be available at the Gulf of Mexico Fishery Management Council office located at 2203 N Lois Avenue, Suite 1100, Tampa, Florida 33607. Those interested in participating via the listening station should contact Julie A. Neer at SEDAR at least 1 day prior to the webinar.

FOR FURTHER INFORMATION CONTACT: Julie A Neer, SEDAR Coordinator, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone (843) 571–4366. Email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop,(2) Assessment Process utilizing webinars and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

SEDAR 22 Assessment Webinar VI

Using datasets recommended from the Data Workshop, participants will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Meeting Schedule

September 1, 2010, from 12 noon to 4 p.m. (EDT)

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Dated: August 13, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–20414 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–864]

Pure Magnesium In Granular Form from the People's Republic of China: Initiation of Changed Circumstances Review

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

SUMMARY: The Department of Commerce ("Department") has received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on pure magnesium in granular form from the People's Republic of China ("PRC"). Specifically, based upon a request filed by China Minmetals Non–ferrous Metals Co., Ltd. ("CMN"), the Department is initiating a changed circumstances review to determine whether CMN is the successor–in–interest to Minmetals Precious &Rare Minerals Import and Export/China National Nonferrous

Metals Industry Trading Group Corp. ("Minmetals/CNNMIT"), a separate–rate respondent in the original investigation.

EFFECTIVE DATE: August 18, 2010.

FOR FURTHER INFORMATION CONTACT: Eve Wang, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–6231.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 2001, the Department published in the **Federal Register** an antidumping duty order on pure magnesium in granular form from the PRC.[1] As part of that order, Minmetals/CNNMIT received a separate–rate of 24.67 percent.[2] On June 28, 2010, CMN filed a submission with the Department requesting that it conduct a changed circumstances review of the antidumping duty order on pure magnesium in granular form from the PRC to determine whether it is the successor–in-interest to Minmetals/CNNMIT.[3] In its submission, CMN provided a copy of its Business License of Enterprise with Legal Person Status and Notification For Name Change issued by Minmetals/CNNMIT's supplier. In addition, CMN provided a narrative explanation describing its operations, production facilities, management, suppliers, customers, products and employees. As part of its June 28, 2010, submission, CMN requested that the Department conduct an expedited review.

Scope of the Order

The scope of this order excludes pure magnesium that is already covered by an existing order[4] on pure magnesium in ingot form, and currently classifiable under item numbers 8104.11.00 and 8104.19.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").

The scope of this order includes imports of pure magnesium products, regardless of chemistry, including, without limitation, raspings, granules, turnings, chips, powder, and briquettes, except as noted above.

Pure magnesium includes: (1) Products that contain at least 99.95 percent primary magnesium, by weight (generally referred to as "ultra–pure" magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent primary magnesium, by weight (generally referred to as "pure" magnesium); (3) chemical combinations of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy"[5] (generally referred to as "off–specification pure" magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight. Excluded from this order are mixtures containing 90 percent or less pure magnesium by weight and one or more of certain non–magnesium granular materials to make magnesium–based reagent mixtures. The non–magnesium granular materials of which the Department is aware used to make such excluded reagents are: lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, aluminum, alumina (Al2O3), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomitic lime, and colemanite. A party importing a magnesium–based reagent which includes one or more materials not on this list is required to seek a scope clarification from the Department before such a mixture may be imported free of antidumping duties.

The merchandise subject to this order is currently classifiable under item 8104.30.00 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended ("Act"), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from, an interested party for a review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order.

In accordance with 19 CFR 351.216(d), the Department has determined that the information submitted by CMN constitutes sufficient evidence to initiate a changed circumstances review. In an antidumping duty changed circumstances review involving a successor–in–interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.[6] Although no single factor will necessarily provide a dispositive indication that the requestor is the successor–in–interest to the predecessor company, generally, the Department will consider one company to be a successor–in–interest to another company if its resulting operation is essentially similar to that of its predecessor.[7] Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.[8]

Based on the information provided in its submission, CMN has provided sufficient evidence to initiate a review to determine whether it is the successor–in–interest to Minmetals/CNNMIT. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. Although CMN submitted documentation related to its business scope and some limited information and documentation regarding its supplier that the Department considers in its successor–in–interest analysis, it did not provide complete supporting documentation or conclusive evidence for the four factors listed above. Accordingly, the Department has determined that it is not expediting this action by combining the

[1] *See Antidumping Duty Order: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 57936 (November 19, 2001).

[2] *Id.* at 57937.

[3] *See* Letter from CMN to the Department regarding Pure Magnesium in Granular Form From the People's Public of China Request for Changed Circumstances Review (June 28, 2010).

[4] *See Notice of Antidumping Duty Orders: Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium From the Russian Federation*, 60 FR 25691 (May 12, 1995).

[5] The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.*

[6] *See Certain Activated Carbon from the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 74 FR 19934 (April 30, 2009).

[7] *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327 (January 4, 2006).

[8] *See Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002); *see also Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999).

preliminary results of review with this notice of initiation.[9]

The Department will issue questionnaires requesting additional information for the review and will publish in the **Federal Register** a notice of the preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(2) and (4), and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: August 11, 2010.

Edward C. Yang,

Acting Deputy Assistant Sectary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–20494 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–965]

Drill Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

DATES: *Effective Date*: August 18, 2010.

SUMMARY: The Department of Commerce ("Department") preliminarily determines that drill pipe from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("Act"), for the period of investigation ("POI") April 1, 2009, through September 30, 2009. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Toni Dach, Susan Pulongbarit, or Matthew Renkey, 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) 482–1655, (202) 482–4031, or (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On December 31, 2009, the Department received a petition concerning imports of drill pipe from the PRC filed on behalf of VAM Drilling USA, Inc., Texas Steel Conversion, Inc., Rotary Drilling Tools, TMK IPSCO, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (collectively, "Petitioners"). *See* "Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the People's Republic of China," dated December 31, 2009 ("Petition"). The Department initiated this investigation on January 28, 2010. *See Drill Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 75 FR 4531 (January 28, 2010) ("*Initiation*"). On March 2, 2010, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC of drill pipe and drill collars. *See Drill Pipe and Drill Collars from China: Investigation Nos. 701–TA–474 and 731–TA–1176 (Preliminary),* USITC Publication 4127 (March 2010).

Respondent Selection

In the *Initiation,* the Department stated that it intended to select respondents based on quantity and value ("Q&V") questionnaires. *See Initiation,* 75 FR at 4534. On February 22, 2010, the Department requested Q&V information from 71 companies with complete addresses that the Petitioners identified as potential exporters, or producers, of drill pipe from the PRC. Additionally, the Department also posted the Q&V questionnaire for this investigation on its Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html.*

The Department received timely Q&V responses from seven exporters/producers that shipped merchandise under investigation to the United States during the POI.

On March 25, 2010, the Department selected DP-Master Manufacturing Co., Ltd. (the "DP-Master Group"), Baoshan Iron & Steel Co., Ltd. ("Baoshan"), and Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. ("Yida") as individually reviewed respondents in this investigation, because, based on the Q&V responses received by the Department, these companies accounted for the largest volume of drill pipe from the PRC during the POI. *See* Memorandum to James Doyle, Office Director, Office 9, from Susan Pulongbarit, International Trade Analyst, through Scot T. Fullerton, Program Manager, regarding the "Investigation of Drill Pipe from the People's Republic of China: Respondent Selection," dated March 25, 2010 ("Respondent Selection Memo"). The Department issued Section A of the antidumping duty questionnaire to the individually reviewed respondents on April 1, 2010, and Sections C and D on April 7, 2010. Between April 22, 2010, and July 30, 2010, these companies responded to the Department's original and supplemental questionnaires.

Separate Rate Applications

Between March 24, 2010, and April 5, 2010, in addition to those filed by the DP-Master Group, Baoshan, and Yida, we also received timely filed separate-rate applications ("SRAs") from three companies: Shanxi Fenglei Drilling Tools Co., Ltd.; Jiangsu Shuguang Huayang Drilling Tool Co., Ltd.; and Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd. (collectively, the "Separate Rate Respondents").

Surrogate Country and Surrogate Value Comments

On April 20, 2010, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development. *See* April 20, 2010, Letter to All Interested Parties, regarding "Antidumping Duty Investigation of Drill Pipe from the People's Republic of China," attaching the April 14, 2010, Memorandum to Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, from Kelly Parkhill, Acting Director, Office for Policy, regarding "Request for List of Surrogate Countries for an Antidumping Duty Investigation of Drill Pipe from the People's Republic of China" ("Surrogate Country List").

[9] *See* 19 CFR 351.221(c)(3)(ii); *see also Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Pasta From Turkey*, 74 FR 681 (January 7, 2009).

On May 5, 2010, Baoshan submitted surrogate country comments. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* "Surrogate Country" section below.

Based on requests from the interested parties, the Department twice extended the deadline for interested parties to submit surrogate value information for consideration for the preliminary determination. Surrogate value comments were due no later than June 11, 2010, with rebuttals due on June 21, 2010. Between June 11, 2010, and June 30, 2010, interested parties submitted surrogate value comments and rebuttal comments.

Postponement of Preliminary Determination

Pursuant to section 733(c) of the Act and 19 CFR 351.205(f)(1), the Department extended the preliminary determination by 50 days. The Department published a postponement of the preliminary determination on June 3, 2010. *See Drill Pipe from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 75 FR 31425 (June 3, 2010).

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department 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 were extended by seven days. The revised deadline for the preliminary determination of this investigation is now August 5, 2010. *See* Memorandum to the Record regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On June 17, 2010, and on July 7, 2010, Yida and the DP-Master Group, respectively, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Yida and the DP-Master Group requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We note that Yida's request is not applicable as it received a zero margin in this preliminary determination.

Period of Investigation

The POI is April 1, 2009, through September 30, 2009. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by the investigation are steel drill pipe, and steel drill collars, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes suitable for drill pipe), without regard to the specific chemistry of the steel (*i.e.,* carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping or countervailing duty order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States ("HTSUS") categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.[1]

While HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection ("CBP") purposes, the written description of the scope of the investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation. See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997); *see also Initiation,* 75 FR at 4532.

On February 12, 2010, the DP-Master Group, along with Downhole Pipe & Equipment, L.P. ("Downhole"), and Command Energy Services International, Ltd. ("Command"), who are U.S. importers of drill pipe from the PRC, filed comments concerning the scope of the antidumping and concurrent countervailing duty investigations. Petitioners also filed scope comments on February 12, 2010. The DP-Master Group, Downhole, and Command submitted rebuttal comments on February 22, 2010. In their submissions, the DP-Master Group, Downhole, and Command requested that the Department amend the scope of these investigations to exclude green tubes, arguing that there is significant overlap between the green tubes that would be used for drill pipe and those that would be used for casing and tubing covered under the scope of the existing antidumping and countervailing duty orders on oil country tubular goods ("OCTGs") from the PRC. Therefore, they contend that all green tubes are subject to the AD and CVD orders on OCTGs from China. *See Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 28551 (May 21, 2010); and *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010).

[1] Prior to February 2, 2007, these imports entered under different tariff classifications, including HTSUS 7304.21.3000, 7304.21.6030, 7304.21.6045, and 7304.21.6060.

Petitioners concede that there is some overlap between green tubes that would be used for drill pipe and those that would be used for casing and tubing covered under the orders on OCTGs from the PRC, but argue that this overlap is minimal. Petitioners state that there are physical and chemical differences between green tube for drill pipe and green tube for OCTG casing and tubing, but these physical characteristics should not be used to distinguish the merchandise due to the risk of circumvention of the orders. They further argue that CBP would be able to determine the intended use of the products by the importer, as only a few companies in the U.S. process green tubes into drill pipe.

Given the comments submitted by parties, the Department has concerns regarding the imprecision of the definition of "green tubes suitable for drill pipe" currently contained in the scope of the antidumping and concurrent countervailing duty investigations, and how to distinguish upon entry into the United States green tube for drill pipe from green tube covered under the orders on OCTGs from the PRC. At this time, the Department will continue to include "green tubes suitable for drill pipe" in the antidumping and concurrent countervailing duty investigations. However, subsequent to these preliminary results, the Department will request additional information regarding characteristics distinguishing green tube for drill pipe from green tube for casing and tubing covered under the orders on OCTGs from the PRC.[2] Unless specific characteristics are provided which distinguish between green tube for drill pipe and green tube for casing and tubing, all green tubes (other than green tube drill collars) will be removed from the scope of the antidumping and countervailing duty investigations on drill pipe from the PRC and will instead be considered as covered under the existing antidumping and countervailing duty orders on OCTGs from the PRC.

Non-Market Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy ("NME"). *See Initiation,* 75 FR 4533–4534. The Department considers the PRC to be a NME country. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007) ("*CFS Paper*"). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination and calculated normal value ("NV") in accordance with Section 773(c) of the Act, which applies to all NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to calculate NV, in most circumstances, on the NME producer's factors of production ("FOPs") valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. As noted above, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development. *See* Surrogate Country List. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

Based on publicly available information placed on the record, the Department determines India to be a reliable source for surrogate values because, pursuant to section 773(c)(4), India is at a comparable level of economic development, is a significant producer of subject merchandise, and has publicly available and reliable data. Moreover, we note that Baoshan argued in its surrogate country comments that India should be selected as the surrogate country and no other interested parties commented on this issue. Accordingly, the Department has preliminarily determined that it is appropriate to select India as the surrogate country for purposes of valuing the FOPs because India meets all of the Department's criteria for surrogate country selection.

Affiliations

Section 771(33) of the Act, provides that: The following persons shall be considered to be "affiliated" or "affiliated persons":

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act states that: "For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person."

Based on the DP-Master Group's statements[3] that it is affiliated with Jiangyin Liangda Drill Pipe Co., Ltd. ("Liangda"), who produced and supplied drill collars exported by the DP-Master Group, and based on the evidence presented in the DP-Master Groups's questionnaire responses, we preliminarily find that the DP-Master Group is affiliated with Liangda, which was involved in the DP-Master Group's production process, pursuant to section 771(33)of the Act and 19 CFR 351.102(b)(3).

Separate Rates

In proceedings involving NME countries, there is a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039, 55040 (September 24, 2008) ("*PET Film*"). It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is

[2] This serves as a reminder to all interested parties submitting scope comments to file their scope comments on the record of both this antidumping duty investigation (A–570–965) and the concurrent countervailing duty investigation (C–570–966).

[3] *See, e.g.,* the DP-Master Group's April 29, 2010, section A questionnaire response at 5.

sufficiently independent so as to be entitled to a separate rate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) ("*Sparklers*"); *see also, Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"), and 19 CFR 351.107(d). However, if the Department determines that a company is wholly foreign-owned or located in a market economy country, then a separate rate analysis is not necessary to determine whether it is independent from government control. *See, e.g., PET Film.*

In the *Initiation,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations. *See Initiation,* 75 FR at 4534–4535. The process requires exporters and producers to submit a separate-rate status application. The Department's practice is discussed further in *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,* (April 5, 2005), ("*Policy Bulletin*"), available at *http://ia.ita.doc.gov/policy/bull05–1.pdf.*[4]

We have considered whether each PRC company that submitted a complete SRA, or a complete Section A Response as a mandatory respondent, is eligible for a separate rate. Because the Separate Rate Respondents and the three individually-reviewed respondents, the DP-Master Group, Baoshan, and Yida, have all stated that they are either joint ventures between Chinese and foreign companies, or are wholly Chinese-owned companies, the Department must analyze whether these companies can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers,* 56 FR at 20589.

The evidence provided by the DP-Master Group, Baoshan, Yida, and the Separate Rate Respondents supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) other formal measures by the government decentralizing control of companies, *i.e.,* each company's SRA and/or Section A response, dated March 24, 2010, through May 4, 2010, where each individually-reviewed or separate-rate respondent stated that it had no relationship with any level of the PRC government with respect to ownership, internal management, and business operations.

2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide,* 59 FR at 22586–87; *see also, Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for the individually-reviewed respondents and Separate Rate Repondents, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management. *See, e.g.,* each company's SRA and/or Section A response, dated March 24, 2010, through May 4, 2010.

The evidence placed on the record of this investigation by the individually-reviewed respondents and the Separate Rate Respondents demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* As a result, we have preliminarily determined that it is appropriate to grant the Separate Rate Respondents a margin based on the experience of the individually-reviewed respondents. In calculating this margin, for the purposes of this preliminary determination we are excluding any *de minimis* or zero rates or rates based on total adverse facts available ("AFA").

Application of Adverse Facts Available, the PRC-Wide Entity, and PRC-Wide Rate

We issued our request for Q&V information to the 71 potential Chinese exporters of the merchandise under investigation identified in the petition, in addition to posting the Q&V questionnaire on the Department's website. However, although all exporters/producers were given an opportunity to submit Q&V responses, we only received seven timely filed Q&V responses in response to our request. Therefore, the Department has preliminarily determined that there were exporters/producers of the merchandise under investigation during the POI from the PRC that did not respond to the Department's request for information and that it is appropriate to treat these non-responsive PRC exporters/producers as part of the PRC-

[4] The *Policy Bulletin* states: "{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation." *See Policy Bulletin* at 6.

wide entity because they did not qualify for a separate rate. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 70 FR 77121, 77128 (December 29, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006).

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available ("FA") in reaching the applicable determination.

Because certain potential exporters/producers of merchandise under investigation did not respond to our questionnaire requesting Q&V information, or the Department's request for more information, we have determined that the PRC-wide entity has withheld information requested by the Department and has failed to provide such information by the deadlines for these submissions. As a result, pursuant to sections 776(a)(2)(A) and (B) of the Act, we find that the use of FA is appropriate to determine the PRC-wide rate. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 37116, 37120 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the FA, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with the agency's requests for information. *See Statement of Administrative Action,* accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103–316, 870 (1994) ("*SAA*"); *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation,* 65 FR 5510, 5518 (February 4, 2000). We find that, because the PRC-wide entity did not respond to our requests for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the FA, an adverse inference is appropriate.

When employing an adverse inference, section 776(b) of the Act indicates that the Department may rely upon information derived from the petition,, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China,* 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum at Comment 1. As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 496.69 percent, a rate calculated in the petition which is higher than the highest rate calculated for either of the cooperative respondents. *See Initiation* at 4534. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as FA, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."[5] To "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[6]

The AFA rate that the Department used is from the Petition; however, we have updated the labor wage rate used to calculate the Petition rates. The Department's practice is not to recalculate dumping margins provided in petitions, but rather to corroborate the applicable petition rate when applying that rate as adverse facts available. In the instant case, however, the surrogate wage rate used in the Petition was based upon the Department's methodology that the Federal Circuit found unlawful in *Dorbest II.* In light of the Federal Circuit decision to invalidate the wage rate methodology, the Department has adjusted the petition rate using the surrogate value for labor used in this preliminary determination.

Petitioners' methodology for calculating the U.S. price and NV in the Petition is discussed in the *Initiation. See Initiation,* 75 FR at 4533–4534. Based on our examination of information on the record, including examination of the petition export prices and NVs, we find that, for purposes of this investigation, there is not a sufficient basis to consider that certain petition margins have probative value. However, there is a sufficient basis to determine that the petition margin selected does have probative value. In this case, we have selected a margin that is not so much greater than the highest CONNUM-specific margin

[5] *See Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China,* 73 FR 6479, 6481 (February 4, 2008), quoting SAA at 870.

[6] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

calculated for one of the mandatory respondents in this proceeding that it can be considered to not have probative value. This method of selecting an AFA dumping margin is consistent with the recent preliminary and final determinations involving kitchen appliance shelving and racks from the PRC, prestressed concrete steel wire strand from the PRC, and wire decking from the PRC.[7]

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55796 (Aug. 30, 2002); *see* also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (Feb. 23, 1998). As guided by the SAA, the information used as AFA should ensure an uncooperative party does not benefit more by failing to cooperate than if it had cooperated fully. *See* SAA at 870. We conclude that using the DP–Master Group's highest transaction-specific margin as a limited reference point, the highest petition margin that can be corroborated within the meaning of the statute is 429.29 percent, which is sufficiently adverse so as to induce cooperation such that the uncooperative companies do not benefit from their failure to cooperate. Accordingly, we find that the rate of 429.29 percent is corroborated within the meaning of section 776(c) of the Act.

Margin for the Separate Rate Companies

The Department received timely and complete SRAs from the Separate Rate Respondents, who are exporters/producers of drill pipe from the PRC, and were not selected for individual review in this investigation. Through the evidence in their applications, these companies have demonstrated their eligibility for a separate rate. *See* the "Separate Rates" section above. Consistent with the Department's practice, as the separate rate, we have established a margin for the Separate Rate Respondents based on the rates we calculated for the individually reviewed respondents, excluding any rates that are zero, *de minimis,* or based entirely on AFA.[8] The companies receiving this rate are listed in the "Preliminary Determination" section of this notice.

Date of Sale

Section 351.401(i) of the Department's regulations state that, "{i}n identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The Court of International Trade ("CIT") has noted that a party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to "satisf{y}" the Department that "a different date better reflects the date on which the exporter or producer establishes the material terms of sale." *See Allied Tube & Conduit Corp. v. United States,* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) ("*Allied Tube*"). Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i); *see also Allied Tube,* 132 F. Supp. 2d at 1090–1092. The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. *See, e.g., Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review,* 72 FR 62824 (November 7, 2007) and accompanying Issue and Decision Memorandum at Comment 1; *see also, Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000) and accompanying Issues and Decision Memorandum at Comment 2.

Baoshan reported that the date of sale was determined by the contract signed between its affiliated importer and its unaffiliated U.S. customer and provided an affidavit from the unaffiliated customer confirming that the contract date was in fact the date of sale, as the material terms of sale were set at that time. Therefore, the Department has preliminarily determined that Baoshan met its burden to establish that contract date, rather than invoice date, should be used as the date of sale. *See, e.g.,* Baoshan's April 23, 2010, submission.

Yida reported that the date of sale was determined by the date of shipment to its unaffiliated U.S. customer, as there either may be changes to the material terms of sale or cancellations up to that point. In this case, because the Department found no evidence contrary to Yida's claims that shipment date was the appropriate date of sale, the Department has preliminarily determined that Yida met its burden to establish that shipment date, rather than invoice date, should be used as the date of sale. *See, e.g.,* Yida's June 2, 2010, supplemental Section A response at 7.

The DP-Master Group reported that the date of sale was determined by the invoice issued to its unaffiliated U.S. customer. In this case, as the Department found no evidence contrary to the DP-Master Group's claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for this preliminary determination. *See, e.g.,* The DP–Master Group's April 29, 2010, Section A response at 26.

Fair Value Comparison

To determine whether sales of drill pipe to the United States by the DP-Master Group, Baoshan, and Yida were made at less than fair value, we compared the export price ("EP") or constructed export price ("CEP"), as appropriate, to NV, as described in the "U.S. Price," and "Normal Value" sections of this notice.

U.S. Price

A. EP

For the DP-Master Group and Yida, in accordance with section 772(a) of the Act, we based the U.S. price for certain sales on EP because the first sale to an unaffiliated purchaser in the United States was made prior to importation, and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, we calculated EP by deducting the applicable movement expenses and adjustments from the gross unit price. We based these movement expenses on surrogate values

[7] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 37012 (July 27, 2009)*; Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 28560 *(May 21, 2010);* and *Wire Decking from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 32905 (June 10, 2010).

[8] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 71 FR 77373, 77377 (December 26, 2006) ("PSF"), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 72 FR 19690 (April 19, 2007).

where a PRC company provided the service and was paid in Renminbi ("RMB") (*see* "Factors of Production" section below for further discussion). For details regarding our EP calculations, *see* the company-specific preliminary analysis memoranda.

B. CEP

In accordance with section 772(b) of the Act, we based the U.S. price for Baoshan's sales on CEP because the first sale to an unaffiliated customer was made by Baoshan's U.S. affiliate. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: Foreign movement expenses, international freight, U.S. transportation expenses, and U.S. customs duties. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: Indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values or actual expenses. For details regarding our CEP calculations, and for a complete discussion of the calculation of the U.S. price for Baoshan, *see* the Baoshan Analysis Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China,* 71 FR 19695, 19703 (April 17, 2006) ("*CLPP*") unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006).

In its questionnaire responses, DP-Master indicated that it self-produces certain packing materials used to pack drill pipe, stating that it owned a company that produced thread protectors and pallet racks, Jiangyin Sanliang Petroleum Machinery Co., Ltd. ("SPM"). In response to the Department's request for all valid business licenses held by DP-Master during the POI, DP-Master provided a separate license for SPM. *See* DP-Master's June 3, 2010 submission at Exhibit 4. Because DP-Master indicated that it self-produces its own pallet racks and a portion of its own thread protectors, it reported the FOPs consumed at SPM *in lieu* of reporting the total consumption of thread protectors and pallet racks, or the intermediate inputs, SPM generated. However, the Department requested that DP-Master report its total consumption of thread protectors and pallet racks. *See* DP-Master's June 8, 2010 submission.

We do not find that record evidence sufficiently supports the claim that DP-Master produced its own thread protectors and pallet racks because SPM operates as a distinct legal entity. Pursuant to *19 CFR 351.401(f),* the Department will collapse producers and treat them as a single entity where (1) those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. For example, the Department did not collapse a respondent with an affiliated input producer when the affiliate did not have the ability to produce or export similar or identical products, and could not produce such products without substantial retooling. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479 (March 24, 2008) ("*Fish Fillets*") and accompanying Issues and Decision Memorandum at Comment 5C. As a consequence, when valuing the intermediate input to the merchandise under investigation in its calculation of the NV in *Fish Fillets,* the Department employed a surrogate value, rather than the FOPs used to produce the intermediate input. *See id.* Similarly, because SPM represents a distinct legal entity which is not involved in the production of merchandise under investigation at issue, for this preliminary determination, we are applying a surrogate value, rather than FOPs, to the amount of thread protectors and pallet racks consumed by DP-Master. Because these calculations are proprietary, *see* Memorandum to the File, through Scot T. Fullerton, Program Manager, Office 9, from Toni Dach, Analyst, "Investigation of Drill Pipe from the People's Republic of China: DP-Master Manufacturing Co., Ltd.," dated concurrently with this notice ("DP-Master Analysis Memo").

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by the respondents. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. In selecting surrogate values, the Department is tasked with using the best available information on the record. *See* section 773(c) of the Act. To satisfy this statutory requirement, we compared the quality, specificity, and contemporaneity of the potential surrogate value data. *See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review,* 67 FR 72139 (December 4, 2002) and accompanying Issues and Decision Memorandum at Comment 6; and *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China,* 66 FR 31204 (June 11, 2001) and accompanying Issues and Decision Memorandum at Comment 5. The Department's practice is to select, to the extent practicable, surrogate values which are: Publicly available; representative of non-export, broad market average values; contemporaneous with the POI; product-specific; and exclusive of taxes and import duties. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004). As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the surrogate values derived from Indian Import Statistics a surrogate freight cost using the shorter of the

reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). For a detailed description of all surrogate values selected in this preliminary determination, *see* Memorandum to the File through Scot Fullerton, Program Manager, Office 9, from Susan Pulongbarit, Analyst, "Investigation of Drill Pipe from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this notice ("Surrogate Values Memo").

For this preliminary determination, we concluded that data from Indian Import Statistics and other publicly available Indian sources constitute the best available information on the record for the surrogate values for respondents' raw materials, packing, by-products, and energy. The record shows that data in the Indian Import Statistics, as well as those from the other publicly available Indian sources, are contemporaneous with the POI, product-specific, tax-exclusive, and represent a broad market average. *See* Surrogate Values Memo. In those instances where we could not obtain publicly available information contemporaneous with the POI, consistent with our practice, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund. *See, e.g., PSF,* 71 FR at 77380 and *CLPP,* 71 FR at 19704.

As a consequence of the CAFC's ruling in *Dorbest Limited et al.* v. *United States,* 2009–1257, –1266, CAFC (May 14, 2010), the Department is no longer relying on the regression-based wage rate described in 19 CFR 351.408(c)(3). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For this preliminary determination, we have calculated an hourly wage rate to use in valuing respondents' reported labor input by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. For an explanation of the Department's calculation of the surrogate value for labor, *see* the Surrogate Values Memo.

In accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be subsidized.[9] In this regard, the Department has previously found that it is appropriate to disregard such prices from Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[10] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds that it is reasonable to infer that all exporters from Indonesia, South Korea and Thailand may have benefitted from these subsidies.

Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

Use of Facts Otherwise Available

Section 776(a) of the Act mandates that the Department use FA if necessary information is not available on the record of an antidumping proceeding or if an interested party or any other person: (A) Withholds information requested by the Department; (B) fails to provide information by the deadlines for submission or in the form and manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified as provided by section 782(i) of the Act.

In this review, the DP-Master Group and Baoshan each reported tolling for certain portions of their production processes. *See, e.g.,* June 1, 2010, DP-Master Group section D questionnaire response at 5–6; and May 25, 2010, Baoshan section D questionnaire response at 7 and 19. Furthermore, although requested to do so by the Department, the DP-Master Group and Baoshan were unable to obtain the data from the unaffiliated tolling companies (the tollers declined to provide the data), and thus did not report the FOPs consumed by these companies for all tolling processes during the production process, which are necessary to the Department's calculation of NV. Therefore, pursuant to section 776(a)(2)(B) of the Act, we have preliminarily determined that the DP-Master Group and Baoshan failed to provide information relevant to the Department's analysis. Thus, the Department has determined that it is necessary to apply FA to value the tolling processes for which factors were not provided by the DP-Master Group and Baoshan. Although the DP-Master Group and Baoshan were unable to obtain actual FOP data for these tolling processes, both respondents submitted estimated FOPs based on their knowledge of the production process. The Department has reviewed these estimated FOPs and believes them to be a reasonable proxy to account for the processing costs associated with the DP-Master Group's and Baoshan's tolled merchandise sold to the United States during the POI, the Department has preliminarily determined to utilize, as FA, the estimated FOPs for the tolled merchandise provided by the DP-Master Group and Baoshan. *See* DP-Master Analysis Memo and Baoshan Analysis Memo.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation,* the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation,* 75 FR at 4535. This practice is described in the *Policy Bulletin.*

Critical Circumstances

On June 21, 2010, Petitioners filed a timely critical circumstances allegation, pursuant to 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of the merchandise under investigation. *See* letter from Petitioners, regarding "Allegation of Critical Circumstances," dated June 21, 2010 ("Petitioners' Allegation"). Between July 8, 2010, and July 14, 2010,

[9] Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) ("*OTCA 1988*") at 590.

[10] *See, e.g., Expedited Sunset Review of the Countervailing Duty Order on Carbazole Violet Pigment 23 from India,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at pages 4–5; *Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at page 4; *See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at pages 17, 19–20; *See* Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination, 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at page 23.

the DP-Master Group, Baoshan, and Yida submitted information on its exports from June 2009 through June 2010, as requested by the Department.

In accordance with 19 CFR 351.206(c)(1), when a critical circumstances allegation is filed 30 days or more before the scheduled date of the final determination (as was done in this case), the Department will issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist. Because the critical circumstances allegation in this case was submitted 20 days or more before the date of the preliminary determination, the Department will issue its preliminary findings of critical circumstances not later than the date of the preliminary determination. *See* 19 CFR 351.206(c)(2)(i).

Legal Framework

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and, (B) there have been massive imports of the subject merchandise over a relatively short period.

Further, 19 CFR 351.206(h)(1) provides that, in determining whether imports of the merchandise under investigation have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, "{i}n general, unless the imports during the 'relatively short period' * * * have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive." 19 CFR 351.206(i) defines "relatively short period" generally as the period starting on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. This section of the Regulations further provides that, if the Department "finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely," then the Department may consider a period of not less than three months from that earlier time. *See* 19 CFR 351.206(i).

Allegation

In their allegation, Petitioners contend that there is a history of dumping of the merchandise under investigation, as indicated by a European Union finding of dumping and injury, resulting in the imposition of a definitive antidumping duty. *See Certain Seamless Pipes and Tubes, including Drill Pipe, of Iron or Steel Originating in the People's Republic of China,* Council Regulation (EC) No. 926/2009, OJ L 269/19 (October 6, 2009). Petitioners also contend that, based on the dumping margins assigned by the Department in the *Initiation,* importers knew or should have known that the merchandise under investigation was being sold at LTFV. Petitioners further included import statistics for the eight HTSUS subheadings most specific to drill pipe provided in the scope of this investigation for the period October 2009 through March 2010.

Analysis

In determining whether the above statutory criteria have been satisfied in this case, we examined: (1) The evidence presented in Petitioners' Allegation and (2) evidence obtained since the initiation of this investigation.

History of Dumping

In determining whether a history of dumping and material injury exists, the Department generally has considered current or previous antidumping duty orders on the merchandise under investigation from the country in question in the United States and current orders in any other country.[11] In their allegation, Petitioners attached a copy of a European Union antidumping duty order that includes drill pipe. Therefore, the Department finds that there is a history of injurious dumping of the merchandise under investigation from the PRC pursuant to section 733(e)(1)(A)(i) of the Act. As such, an analysis pursuant to 733(e)(1)(A)(ii) of the Act, of whether the importer knew or should have known of dumping and likely injury, is not necessary.

Massive Imports Over a Relatively Short Period

Pursuant to 19 CFR 351.206(h)(2), the Department will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. The Department normally considers a "relatively short period" as the period beginning on the date the proceeding begins and ending at least three months later. *See* 19 CFR 351.206(i). For this reason, the Department normally compares the import volumes of the merchandise under investigation for at least three months immediately preceding the filing of the petition (*i.e.,* the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.,* the "comparison period"). *See id.*

In their allegation, Petitioners noted that they filed the petition on December 31, 2009. Petitioners included in their allegation U.S. import data, which used a three-month base period (October 2009 through December 2009) and a three-month comparison period (January 2010 through March 2010) in showing whether imports were massive. The Department, however, has used a six-month base and comparison period in its analysis, the maximum amount of data which could be collected.[12]

The Department agrees with Petitioners that importers, exporters, or producers had knowledge of an antidumping duty investigation at the date the petition was filed (*i.e.,* December 31, 2009). Therefore, December falls within the base period. We note that the DP–Master Group has submitted information attempting to show that importers, exporters and producers had reason to believe that an antidumping proceeding was likely at an earlier date, June 2009. The DP-Master Group submitted a declaration from the partner and owner of a company involved with drill pipe, drill collar, and other drilling equipment. *See* the DP–Master Group's July 12, 2010, letter in response to the Department's request for shipment data. The declaration references conversations that this individual had with others in the industry regarding fundraising in order to pay for antidumping and countervailing duty investigations.

[11] *See, e.g., Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination,* 74 FR 59117, 59119 (November 17, 2009) ("*OCTG Prelim*"), unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping,* 75 FR 20335 (April 19, 2010).

[12] *See, e.g., Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 72 FR 19690, 19692 (April 19, 2007).

Although in prior proceedings the Department has found that an earlier knowledge date should apply, because importers, producers and exporters had reason to believe that a proceeding was likely prior to a petition being filed,[13] the evidence put forth by the DP–Master Group in this case does not rise to the level of that provided in those other cases, which included specific, widely available publications. The single declaration submitted by the DP–Master Group, unlike the information the Department has relied on in other cases,[14] is speculative in that it centered on fundraising which might result in a case and does not demonstrate that any action was taken by the DP–Master Group during this alleged early knowledge date. In fact, as described below, the record shows the contrary—massive increases in shipments to the United States after the petition was filed. Therefore, we find that the DP–Master Group has not demonstrated that importers, exporters, or producers, had reason to believe, at some time prior to the filing of the petition that a proceeding covering drill pipe from the PRC was likely.

A. The DP-Master Group, Baoshan, and Yida

The Department requested monthly shipment information from the three individually reviewed respondents in this investigation. We determine that, based on six-month base and comparison periods (July 2009–December 2009, and January 2010–June 2010), imports from the DP–Master Group were massive, while those from Baoshan and Yida were not. Specifically, the DP–Master Group's data show an increase of greater than 15 percent of drill pipe from the PRC from the base to the comparison period, while the data from Baoshan and Yida do not.[15] Thus, pursuant to 19 CFR 351.206(h), we determine that this increase, being greater than 15 percent, shows that imports in the comparison period were massive for the DP–Master Group.

B. Separate Rate Applicants

As noted above, we used six-month base and comparison periods for the individually investigated companies. Because it has been the Department's practice to conduct its massive imports analysis of separate rate companies based on the experience of investigated companies,[16] we did not request monthly shipment information from the separate rate applicants. The Department has relied upon import data from the three individually investigated companies in determining whether there have been massive imports for the separate rate companies. Accordingly, based on the weighted-average of these data, we find that imports in the post-petition period were massive for those companies because the weighted-average increase in volume is greater than 15 percent when comparing the base period to the comparison period. *See* Critical Circumstances Memo. Thus, pursuant to 19 CFR 351.206(h), we determine that this increase, being greater than 15 percent, shows that imports in the comparison period were massive for the separate rate companies.

C. PRC-Wide Entity

Because the PRC-wide entity did not cooperate with the Department by not responding to the Department's antidumping questionnaire, we were unable to obtain shipment data from the PRC-wide entity for purposes of our critical circumstances analysis, and thus there is no verifiable information on the record with respect to its export volumes.

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding under the Act, or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the FA in reaching the applicable determination under this title.

Furthermore, section 776(b) of the Act provides that, if a party has failed to act to the best of its ability, the Department may apply an adverse inference. The PRC-wide entity did not respond to the Department's request for information. Thus, we are using FA, in accordance with section 776(a) of the Act, and, pursuant to section 776(b) of the Act, we also find that AFA is warranted because the PRC-wide entity has not acted to the best of its ability in not responding to the request for information. Accordingly, as AFA we preliminarily find that there were massive imports of merchandise from the PRC-wide entity.[17]

Preliminary Critical Circumstances Determination

Record evidence indicates that there is a history of dumping causing material injury. In addition, record evidence indicates that the DP–Master Group, the separate rate applicants, and the PRC-wide entity had massive imports during a relatively short period. Therefore, in accordance with section 733(e)(1) of the Act, we preliminarily find that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of the merchandise under investigation from the DP–Master Group, the separate rate applicants and the PRC-wide entity in this antidumping duty investigation.

Preliminary Determination

Preliminary weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average margin
DP-Master Group.	DP–Master Group.	206.00
Baoshan Iron & Steel Co., Ltd.	Baoshan Iron & Steel Co., Ltd.	7.64

[13] *See, e.g., Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 37116 (June 23, 2003), and accompanying Issues and Decision Memorandum at Comment 7 (finding reason to believe a case was likely based upon widely disseminated newspaper articles stating: "America's catfish industry, stung by dropping prices triggered by a flood of cheaper fish from Vietnam, is gearing up for a possible antidumping campaign" and "Vietnamese seafood exporters are entering a new war on the U.S. market, as American rivals are lobbying on an anti-dumping taxation"); and *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Germany,* 67 FR 55802 (August 30, 2002), and accompanying Issues and Decision Memorandum at Comment 6 (finding reason to believe a case was likely based upon trade publication which "alerted steel wire rod importers, exporters, and producers the proceedings concerning the subject merchandise were likely in a number of countries").

[14] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China,* 69 FR 70997 (December 8, 2004) at Comment 7A. *See also Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 4986 (January 31, 2003), unchanged in the final determination, *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 37116 (June 23, 2003).

[15] *See* Memo to The File, from Matthew Renkey, Senior Analyst, through Scot T. Fullerton, Program Manager, regarding "Investigation of Drill Pipe form the People's Republic of China: Critical Circumstances Analysis," dated concurrently with this notice ("Critical Circumstances Memo").

[16] *See, e.g., OCTG,* 74 FR at 59121.

[17] *See OCTG,* 74 FR at 59121.

Exporter	Producer	Weighted-Average margin
Shanxi Yida Special Steel Imp. & Exp. Co., Ltd.	Shanxi Yida Special Steel Group Co., Ltd.	0.00
Shanxi Fenglei Drilling Tools Co., Ltd.	Shanxi Fenglei Drilling Tools Co., Ltd.	106.82
Jiangsu Shuguang Huayang Drilling Tool, Co. Ltd.	Jiangsu Shuguang Huayang Drilling Tool, Co. Ltd.	106.82
Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd.	Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd.	106.82
PRC-wide Entity.	.....	429.29

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of drill pipe from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from the DP–Master Group, Baoshan, the Separate Rate Respondents, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. For Yida, we will not instruct CBP to suspend liquidation of any entries of drill pipe from the PRC as described in the "Scope of Investigation" section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

The Department has determined in *Drill Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 75 FR 33245 (June 11, 2010) ("*CVD PRC Drill Pipe Prelim*"), that the merchandise under investigation, exported and produced by the DP–Master Group, benefitted from an export subsidy. Where the merchandise under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require an antidumping cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, minus the amount determined to constitute an export subsidy in the companion countervailing duty investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004). In this case, because the DP–Master Group benefitted from an export subsidy, we will instruct CBP to require an antidumping cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the CEP for the DP–Master Group, minus the amount determined to constitute an export subsidy.

Because Baoshan, Yida, and Separate Rate Companies did not benefit from any export subsidy, we will instruct CBP to require an antidumping cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above.

For all other entries of drill pipe from the PRC, the following cash deposit/bonding instructions apply: (1) For all PRC exporters of drill pipe which have not received their own rate, the cash-deposit or bonding rate will be the PRC-wide rate; (2) for all non-PRC exporters of drill pipe from the PRC which have not received their own rate, the cash-deposit or bonding rate will be the rate applicable to the exporter/producer combinations that supplied that non-PRC exporter. This suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of drill pipe, or sales (or the likelihood of sales) for importation, of the merchandise under investigation within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven business days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs limited to issues raised in case briefs must be received no later than five business days after the deadline date for case briefs. *See* 19 CFR 351.309(c)(i) and (d). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing shortly after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: August 5, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–20512 Filed 8–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–965]

Drill Pipe From the People's Republic of China: Notice of Correction to the Preliminary Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

DATES: *Effective Date:* August 18, 2010.

FOR FURTHER INFORMATION CONTACT: Toni Dach, Susan Pulongbarit, or Matthew Renkey, 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) 482–1655, (202) 482–4031, or (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Correction

On August 6, 2010, the Department of Commerce ("the Department") released the preliminary determination of the investigation for drill pipe from the People's Republic of China ("PRC") to interested parties. *See Drill Pipe from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value and Affirmative Determination of Critical Circumstances, and Postponement of Final Determination,* signed August 5, 2010 ("*Preliminary Determination*"). Subsequent to the announcement and release of the *Preliminary Determination,* the Department identified an inadvertent error.

Specifically, the *Preliminary Determination* incorrectly stated that the Department determined a weighted-average dumping margin of 7.64 percent for Baoshan Iron & Steel Co. ("Baoshan") and a dumping margin for the separate rate respondents [1] of 106.82 percent. However, the correct rate, as noted in Baoshan's Analysis Memorandum is 2.66 percent. *See* Memorandum to the File, through Scot T. Fullerton, from Susan Pulongbarit, regarding Antidumping Investigation of Drill Pipe from the People's Republic of China: Analysis for the Preliminary Determination of Baoshan Iron & Steel Co., Ltd., dated August 5, 2010. Because we used Baoshan's rate to calculate the separate rate margin, we have also corrected the average dumping margin for the separate rate respondents to 104.33 percent. To resolve these discrepancies, the *Preliminary Determination* is hereby corrected to identify Baoshan's weighted-average dumping margin as 2.66 percent and the average dumping margin for the separate rate respondents as 104.33 percent. We are publishing this correction simultaneously with the *Preliminary Determination.*

This notice is published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

[1] The separate rate respondents are Shanxi Fenglei Drilling Tools Co., Ltd., Jiangsu Shuguang Huayang Drilling Tool, Co. Ltd., and Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd.

Dated: August 11, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–20500 Filed 8–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–001]

Sorbitol From France: Notice of Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On May 28, 2010, the U.S. Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on sorbitol from France. The review covers one producer/exporter of sorbitol, Syral S.A.S. (Syral). Based on the withdrawal of the requests for review from Archer Daniels Midland Company (ADM) and Corn Products International (CP), domestic producers of sorbitol, we are now rescinding this administrative review in full.

DATES: *Effective Date:* August 18, 2010

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1131 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2010, the Department published in the **Federal Register** the notice of opportunity to request an administrative review of the antidumping duty order on sorbitol from France for the period April 1, 2009, through March 31, 2010. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 75 FR 16426 (April 1, 2010). On April 5, 2010, the Department received a request from CP that the Department conduct an administrative review covering Syral. On April 30, 2010, the Department received a request from ADM that the Department conduct an administrative review covering Syral. On May 28, 2010, the Department published in the **Federal Register** the notice of initiation of the 2009–2010 administrative review of sorbitol from France. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 29976 (May 28, 2010).

On June 3, 2010, the Department issued its antidumping duty questionnaire to Syral. On June 25, 2010, CP withdrew its request for review of Syral. On August 2, 2010, ADM withdrew its request for review of Syral.

Period of Review

The period of review (POR) at the time the review was initiated was April 1, 2009, through March 31, 2010. Subsequently, the antidumping duty order on sorbitol from France was revoked, effective August 5, 2009. *See Revocation of Antidumping Duty Order on Sorbitol from France,* 75 FR 42380 (July 21, 2010). Consequently, the POR for the administrative review became April 1, 2009, through August 4, 2009.

Scope of the Order

The products under review are shipments of crystalline sorbitol. Crystalline sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is used in the production of sugarless gum, candy, groceries, and pharmaceuticals. The above-described sorbitol is currently classifiable under item 2905.44.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description remains dispositive.

Rescission of Antidumping Administrative Review

19 CFR 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request. CP and ADM withdrew their requests for review of Syral within the 90-day deadline.

Assessment Instructions

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the company for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from

warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 10, 2010.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–20495 Filed 8–17–10; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday September 3, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–20597 Filed 8–16–10; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday September 17, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–20600 Filed 8–16–10; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday September 10, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–20598 Filed 8–16–10; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Tuesday, August 31, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–20601 Filed 8–16–10; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday September 24, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance and Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–20605 Filed 8–16–10; 4:15 pm]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC–2010–0086]

Third Party Testing for Certain Children's Products; Clothing Textiles: Requirements for Accreditation of Third Party Conformity Assessment Bodies

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Requirements.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is issuing a notice of requirements that provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to CPSC regulations under the Flammable Fabrics Act relating to clothing textiles. The Commission is issuing this notice of requirements pursuant to the Consumer Product Safety Act (CPSA).

DATES: *Effective Date:* The requirements for accreditation of third party conformity assessment bodies to assess conformity with 16 CFR part 1610 are effective upon publication of this notice in the **Federal Register**.[1]

[1] The Commission voted 3–2 to publish this notice of requirements. Chairman Inez M. Tenenbaum, Commissioner Nancy A. Nord, and Commissioner Anne Meagher Northup each issued a statement, and the statements can be found at *http://www.cpsc.gov/pr/statements.html.*

Comments in response to this notice of requirements should be submitted by September 17, 2010. Comments on this notice should be captioned "Third Party Testing for Certain Children's Products; Clothing Textiles: Requirements for Accreditation of Third Party Conformity Assessment Bodies."

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0086 by any of the following methods:

Electronic Submissions: Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through *http://www.regulations.gov.*

Written Submissions: Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information (such as a Social Security Number) electronically; if furnished at all, such information should be submitted in writing.

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

FOR FURTHER INFORMATION CONTACT: Robert "Jay" Howell, Assistant Executive Director for The Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail *rhowell@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with "other children's product safety rules." Section 14(f)(1) of the CPSA defines "children's product safety rule" as "a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance." Under section 14(a)(3)(A) of the CPSA, each manufacturer (including the importer) or private labeler of products subject to those regulations must have products that are manufactured more than 90 days after the **Federal Register** publication date of a notice of the requirements for accreditation, tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. Section 14(a)(2) of the CPSA, as added by section 102(a)(2) of the CPSIA, requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (*see, e.g.,* section 14(h) of the CPSA, as added by section 102(b) of the CPSIA).

The Commission also is recognizing limited circumstances in which it will accept certifications based on product testing conducted before the third party conformity assessment body is accepted as accredited by the CPSC. The details regarding those limited circumstances can be found in part IV of this document below.

This notice provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to 16 CFR part 1610, *Standard for the Flammability of Clothing Textiles,* which sets a minimum standard for flammability of clothing textiles under the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*) (FFA).

Section 3(a)(2) of the CPSA defines a children's product as "a consumer product designed or intended primarily for children 12 years of age or younger." Although clothing textiles are often used in nonchildren's wearing apparel, some clothing textiles are "designed or intended primarily for children 12 years of age or younger." Clothing textiles designed or intended primarily for children 12 years of age or younger are subject to the third party testing and certification requirements in section 14(a)(2) of the CPSA. Accordingly, this notice of requirements addresses the accreditation of conformity assessment bodies to test such clothing textiles for conformity with 16 CFR part 1610.

Some clothing textiles are exempt from part 1610 testing. *See* 16 CFR 1610.1(d). Manufacturers do not need to submit exempt clothing textiles designed or intended primarily for children 12 years of age or younger to a third party conformity assessment body to confirm that the exemption applies. For clothing textiles designed or intended primarily for children 12 years of age or younger that are subject to 16 CFR part 1610, manufacturers may submit a product for third party testing at either the pre- or post-garment stage of production.

Although section 14(a)(3)(B)(vi) of the CPSA directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess conformity with "all other children's product safety rules," this notice of requirements is limited to the regulations identified immediately above.

The CPSC also recognizes that section 14(a)(3)(B)(vi) of the CPSA is captioned as "All Other Children's Product Safety Rules," but the body of the statutory requirement refers only to "other children's product safety rules." Nevertheless, section 14(a)(3)(B)(vi) of the CPSA could be construed as requiring a notice of requirements for "all" other children's product safety rules, rather than a notice of requirements for "some" or "certain" children's product safety rules. However, whether a particular rule represents a "children's product safety rule" may be subject to interpretation, and the Commission staff is continuing to evaluate which rules, regulations, standards, or bans are "children's product safety rules." The CPSC intends to issue additional notices of requirements for other rules which the Commission determines to be "children's product safety rules."

This notice of requirements applies to all third party conformity assessment bodies as described in section 14(f)(2) of the CPSA. Generally speaking, such third party conformity assessment bodies are: (1) Third party conformity assessment bodies that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes; (2) "firewalled" conformity assessment bodies (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes and that seek accreditation

under the additional statutory criteria for "firewalled" conformity assessment bodies); and (3) third party conformity assessment bodies owned or controlled, in whole or in part, by a government.

The Commission requires baseline accreditation of each category of third party conformity assessment body to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) Standard 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories." The accreditation must be by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation-Mutual Recognition Arrangement (ILAC–MRA), and the scope of the accreditation must include testing in accordance with the regulations identified earlier in part I of this document for which the third party conformity assessment body seeks to be accredited.

(A description of the history and content of the ILAC–MRA approach and of the requirements of the ISO/IEC 17025:2005 laboratory accreditation standard is provided in the CPSC staff briefing memorandum "Third Party Conformity Assessment Body Accreditation Requirements for Testing Compliance with 16 CFR Part 1501 (Small Parts Regulations)," dated November 2008 and available on the CPSC's Web site at *http://www.cpsc.gov/library/foia/foia09/brief/smallparts.pdf.*)

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site at *http://www.cpsc.gov/ABOUT/Cpsia/labaccred.html.*

The Commission stayed the enforcement of certain provisions of section 14(a) of the CPSA in a notice published in the **Federal Register** on February 9, 2009 (74 FR 6396); the stay applied to testing and certification of various products, including clothing textiles. On December 28, 2009, the Commission published a notice in the **Federal Register** (74 FR 68588) revising the terms of the stay. One section of the December 28, 2009, notice addressed "Consumer Products or Children's Products Where the Commission Is Continuing the Stay of Enforcement Until Further Notice," due to factors such as pending rulemaking proceedings affecting the product or the absence of a notice of requirements. The clothing textile testing and certification requirements were included in that section of the December 28, 2009, notice. As the factor preventing the stay from being lifted in the December 28, 2009, notice with regard to testing and certifications of clothing textiles was the absence of a notice of requirements, publication of this notice has the effect of lifting the stay with regard to 16 CFR part 1610.

The Commission noted in the December 28, 2009, notice that the stay of enforcement did not extend to guaranties under the FFA. The manufacturer or supplier of clothing textiles may issue a guaranty, based on reasonable and representative testing, that the clothing textile complies with FFA standards. The holder of a valid guaranty is not subject to criminal prosecution under section 7 of the FFA (penalties) for a violation of section 3 of the FFA (prohibited transactions).

The reasonable and representative tests sufficient for the issuance of an FFA guaranty are generally performed by the manufacturer; those tests are sufficient for the issuance of a general conformity certification for nonchildren's products under section 14(a)(1) of the CPSA. However, because section 14(a)(2) of the CPSA requires children's products subject to a children's product safety rule to be tested by an accredited third party conformity assessment body, reasonable and representative tests performed by a manufacturer sufficient for the issuance of an FFA guaranty are not sufficient for the issuance of a certification of compliance with 16 CFR part 1610 for clothing textiles designed or intended primarily for children 12 years of age or younger (unless the manufacturer's facility is a CPSC-accepted firewalled conformity assessment body). The textiles may be tested by a CPSC-accepted third party laboratory or the final garment may be tested to ensure that the textiles used meet the standard's flammability requirements.

This notice of requirements is effective on August 18, 2010. Further, as the publication of this notice of requirements effectively lifts the stay of enforcement with regard to testing and certifications related to 16 CFR part 1610, each manufacturer of a children's product subject to 16 CFR part 1610 must have any such product manufactured after November 16, 2010 tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance with 16 CFR part 1610 based on that testing. (Under the CPSA, the term "manufacturer" includes anyone who manufactures or imports a product.)

This notice of requirements is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553 (*see* section 14(a)(3)(G) of the CPSA, as added by section 102(a)(2) of the CPSIA (15 U.S.C. 2063(a)(3)(G)).

II. Accreditation Requirements

A. Baseline Third Party Conformity Assessment Body Accreditation Requirements

For a third party conformity assessment body to be accredited to test children's products for conformity with the test methods in the regulations identified earlier in part I of this document, it must be accredited by an ILAC–MRA signatory accrediting body, and the accreditation must be registered with, and accepted by, the Commission. A listing of ILAC–MRA signatory accrediting bodies is available on the Internet at *http://ilac.org/membersbycategory.html.* The accreditation must be to ISO Standard ISO/IEC 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories," and the scope of the accreditation must expressly include testing to the regulations in 16 CFR part 1610, *Standard for the Flammability of Clothing Textiles.* A true copy, in English, of the accreditation and scope documents demonstrating compliance with the requirements of this notice must be registered with the Commission electronically. The additional requirements for accreditation of firewalled and governmental conformity assessment bodies are described in parts II.B and II.C of this document below.

The Commission will maintain on its Web site an up-to-date listing of third party conformity assessment bodies whose accreditations it has accepted and the scope of each accreditation. Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV below, once the Commission adds a third party conformity assessment body to that list, the third party conformity assessment body may commence testing of children's products to support the manufacturer's certification that the product complies with the regulations identified earlier in part I of this document.

B. Additional Accreditation Requirements for Firewalled Conformity Assessment Bodies

In addition to the baseline accreditation requirements in part II.A of this document above, firewalled conformity assessment bodies seeking accredited status must submit to the Commission copies, in English, of their training documents showing how employees are trained to notify the Commission immediately and confidentially of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue

influence over the third party conformity assessment body's test results. This additional requirement applies to any third party conformity assessment body in which a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body owns an interest of ten percent or more. While the Commission is not addressing common parentage of a third party conformity assessment body and a children's product manufacturer at this time, it will be vigilant to see if this issue needs to be addressed in the future.

As required by section 14(f)(2)(D) of the CPSA, the Commission must formally accept, by order, the accreditation application of a third party conformity assessment body before the third party conformity assessment body can become an accredited firewalled conformity assessment body.

C. Additional Accreditation Requirements for Governmental Conformity Assessment Bodies

In addition to the baseline accreditation requirements of part II.A of this document above, the CPSIA permits accreditation of a third party conformity assessment body owned or controlled, in whole or in part, by a government if:

- To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;
- The third party conformity assessment body's testing results are not subject to undue influence by any other person, including another governmental entity;
- The third party conformity assessment body is not accorded more favorable treatment than other third party conformity assessment bodies that have been accredited in the same nation;
- The third party conformity assessment body's testing results are accorded no greater weight by other governmental authorities than those of other accredited third party conformity assessment bodies; and
- The third party conformity assessment body does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the third party conformity assessment body's conformity assessments.

The Commission will accept the accreditation of a governmental third party conformity assessment body if it meets the baseline accreditation requirements of part II.A of this document above and meets the additional conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

III. How Does a Third Party Conformity Assessment Body Apply for Acceptance of Its Accreditation?

The Commission has established an electronic accreditation acceptance and registration system accessed via the Commission's Internet site at *http://www.cpsc.gov/about/cpsia/labaccred.html.* The applicant provides, in English, basic identifying information concerning its location, the type of accreditation it is seeking, electronic copies of its ILAC–MRA accreditation certificate and scope statement, and firewalled third party conformity assessment body training document(s), if relevant.

Commission staff will review the submission for accuracy and completeness. In the case of baseline third party conformity assessment bodies and government-owned or government-operated conformity assessment bodies, when that review and any necessary discussions with the applicant are satisfactorily completed, the third party conformity assessment body in question is added to the CPSC's list of accredited third party conformity assessment bodies at *http://www.cpsc.gov/about/cpsia/labaccred.html.* In the case of a firewalled conformity assessment body seeking accredited status, when the staff's review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration. (A third party conformity assessment body that may ultimately seek acceptance as a firewalled third party conformity assessment body also can initially request acceptance as a third party conformity assessment body accredited for testing of children's products other than those of its owners.) If the Commission accepts a staff recommendation to accredit a firewalled conformity assessment body, the firewalled conformity assessment body will then be added to the CPSC's list of accredited third party conformity assessment bodies. In each case, the Commission will notify the third party conformity assessment body electronically of acceptance of its accreditation. All information to support an accreditation acceptance request must be provided in the English language.

Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV of this document below, once the Commission adds a third party conformity assessment body to the list, the third party conformity assessment body may then begin testing of children's products to support certification of compliance with the regulations identified earlier in part I of this document for which it has been accredited.

IV. Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation

The Commission will accept a certificate of compliance with the standard for clothing textiles included in 16 CFR part 1610, *Standard for the Flammability of Clothing Textiles,* based on testing performed by an accredited third party conformity assessment body (including a government-owned or -controlled conformity assessment body, and a firewalled conformity assessment body) prior to the Commission's acceptance of its accreditation if:

- At the time of product testing, the product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an ILAC–MRA member at the time of the test. For firewalled conformity assessment bodies, the firewalled conformity assessment body must be one that the Commission accredited by order at or before the time the product was tested, even though the order will not have included the test methods in the regulations specified in this notice. If the third party conformity assessment body has not been accredited by a Commission order as a firewalled conformity assessment body, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body before it is accredited, by Commission order, as a firewalled conformity assessment body;
- The third party conformity assessment body's application for testing using the test methods in the regulations identified in this notice is accepted by the CPSC on or before October 18, 2010;
- The product was tested on or after August 18, 2010 with respect to the regulations identified in this notice;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to the regulations

identified earlier in part I of this document;

- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope the standards described in part I of this notice, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1610.

Dated: August 13, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–20497 Filed 8–17–10; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC–2010–0085]

Third Party Testing for Certain Children's Products; Mattresses, Mattress Pads, and/or Mattress Sets: Requirements for Accreditation of Third Party Conformity Assessment Bodies

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of requirements.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is issuing a notice of requirements that provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to the CPSC regulations under the Flammable Fabrics Act relating to mattresses, mattress pads, and/or mattress sets. The Commission is issuing this notice of requirements pursuant to the Consumer Product Safety Act (CPSA).

DATES: *Effective Date:* The requirements for accreditation of third party conformity assessment bodies to assess conformity with 16 CFR parts 1632 and/or 1633 are effective upon publication of this notice in the **Federal Register**.[1]

Comments in response to this notice of requirements should be submitted by September 17, 2010. Comments on this notice should be captioned "Third Party Testing for Certain Children's Products; Mattresses, Mattress Pads, and/or Mattress Sets: Requirements for Accreditation of Third Party Conformity Assessment Bodies."

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0085 by any of the following methods:

Electronic Submissions: Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through *http://www.regulations.gov.*

Written Submissions: Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information (such as a Social Security Number) electronically; if furnished at all, such information should be submitted in writing.

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

FOR FURTHER INFORMATION CONTACT: Robert "Jay" Howell, Assistant Executive Director for The Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail *rhowell@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with "other children's product safety rules." Section 14(f)(1) of the CPSA defines "children's product safety rule" as "a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance." Under section 14(a)(3)(A) of the CPSA, each manufacturer (including the importer) or private labeler of products subject to those regulations must have products that are manufactured more than 90 days after the **Federal Register** publication date of a notice of the requirements for accreditation, tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. Section 14(a)(2) of the CPSA, as added by section 102(a)(2) of the CPSIA, requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (*see, e.g.,* section 14(h) of the CPSA, as added by section 102(b) of the CPSIA).

The Commission also is recognizing limited circumstances in which it will accept certifications based on product testing conducted before the third party conformity assessment body is accepted as accredited by the CPSC. The details regarding those limited circumstances can be found in part IV of this document below.

This notice provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to 16 CFR parts 1632, *Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended),* and/or 1633, *Standard for the Flammability (Open Flame) of Mattress Sets,* which set minimum standards for flammability of mattresses, mattress pads, and/or mattress sets under the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*) (FFA).

Section 3(a)(2) of the CPSA defines a children's product as "a consumer product designed or intended primarily for children 12 years of age or younger." Although mattresses, mattress pads, and/or mattress sets are often for general use (that is, it is produced for general consumption rather than being produced specifically for use by children), some mattresses, mattress pads, and/or mattress sets are "designed or intended primarily for children 12 years of age or younger." Examples of such products include youth and crib-size mattresses. Mattresses, mattress pads, and/or mattress sets designed or intended primarily for children 12 years of age or younger are subject to the third

[1] The Commission voted 4–1 to publish this notice of requirements. Chairman Inez M. Tenenbaum and Commissioner Anne Meagher Northup each issued a statement, and the statements can be found at *http://www.cpsc.gov/pr/statements.html.*

party testing and certification requirements in section 14(a)(2) of the CPSA. Accordingly, this notice of requirements addresses the accreditation of conformity assessment bodies to test mattresses, mattress pads, and/or mattress sets designed or intended primarily for children 12 years of age or younger for conformity with 16 CFR parts 1632 and/or 1633.

Although section 14(a)(3)(B)(vi) of the CPSA directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess conformity with "all other children's product safety rules," this notice of requirements is limited to the regulations identified immediately above.

The CPSC also recognizes that section 14(a)(3)(B)(vi) of the CPSA is captioned as "All Other Children's Product Safety Rules," but the body of the statutory requirement refers only to "other children's product safety rules." Nevertheless, section 14(a)(3)(B)(vi) of the CPSA could be construed as requiring a notice of requirements for "all" other children's product safety rules, rather than a notice of requirements for "some" or "certain" children's product safety rules. However, whether a particular rule represents a "children's product safety rule" may be subject to interpretation, and the Commission staff is continuing to evaluate which rules, regulations, standards, or bans are "children's product safety rules." The CPSC intends to issue additional notices of requirements for other rules which the Commission determines to be "children's product safety rules."

This notice of requirements applies to all third party conformity assessment bodies as described in section 14(f)(2) of the CPSA. Generally speaking, such third party conformity assessment bodies are: (1) Third party conformity assessment bodies that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes; (2) "firewalled" conformity assessment bodies (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes and that seek accreditation under the additional statutory criteria for "firewalled" conformity assessment bodies); and (3) third party conformity assessment bodies owned or controlled, in whole or in part, by a government.

The Commission requires baseline accreditation of each category of third party conformity assessment body to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) Standard 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories." The accreditation must be by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation-Mutual Recognition Arrangement (ILAC–MRA), and the scope of the accreditation must include testing in accordance with the regulations identified earlier in part I of this document for which the third party conformity assessment body seeks to be accredited.

(A description of the history and content of the ILAC–MRA approach and of the requirements of the ISO/IEC 17025:2005 laboratory accreditation standard is provided in the CPSC staff briefing memorandum "Third Party Conformity Assessment Body Accreditation Requirements for Testing Compliance with 16 CFR Part 1501 (Small Parts Regulations)," dated November 2008 and available on the CPSC's Web site at *http://www.cpsc.gov/library/foia/foia09/brief/smallparts.pdf*.)

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site at *http://www.cpsc.gov/ABOUT/Cpsia/labaccred.html.*

The Commission stayed the enforcement of certain provisions of section 14(a) of the CPSA in a notice published in the **Federal Register** on February 9, 2009 (74 FR 6396); the stay applied to testing and certification of various products, including mattresses, mattress pads, and mattress sets. On December 28, 2009, the Commission published a notice in the **Federal Register** (74 FR 68588) revising the terms of the stay. One section of the December 28, 2009, notice addressed "Consumer Products Subject to Pre-Existing Requirements, but That May Be Subject to Additional Requirements for Children's Products When the Commission Issues a Notice of Requirements for the Children's Product or That May Be Subject to Additional Certification Requirements." The December 28, 2009, notice announced the lifting of the stay with regard to mattresses, mattress pads, and mattress sets that are not children's products. As the factor preventing the stay from being lifted in the December 28, 2009, notice with regard to the testing and certification of children's products subject to 16 CFR parts 1632 and/or 1633 was the absence of a notice of requirements, publication of this notice has the effect of lifting the stay with regard to those products.

The Commission noted in the December 28, 2009, notice that the stay of enforcement did not extend to guaranties under the FFA. The manufacturer or supplier of mattresses, mattress pads and/or mattress sets may issue a guaranty, based on reasonable and representative testing, that the product complies with FFA standards. The holder of a valid guaranty is not subject to criminal prosecution under section 7 of the FFA (penalties) for a violation of section 3 of the FFA (prohibited transactions).

The reasonable and representative tests sufficient for the issuance of an FFA guaranty are generally performed by the manufacturer; those tests are sufficient for the issuance of a general conformity certification for nonchildren's products under section 14(a)(1) of the CPSA. However, because section 14(a)(2) of the CPSA requires children's products subject to a children's product safety rule to be tested by an accredited third party conformity assessment body, reasonable and representative tests performed by a manufacturer sufficient for the issuance of an FFA guaranty are not sufficient for the issuance of a certification of compliance with 16 CFR part 1632 and/or 1633 for mattresses, mattress pads, and/or mattress sets designed or intended primarily for children 12 years of age or younger (unless the manufacturer's facility is a CPSC-accepted firewalled conformity assessment body).

The smoldering ignition testing and the open flame testing required in 16 CFR parts 1632 and 1633 are based on prototype testing. Prototype testing must be conducted by a CPSC-accepted third party conformity assessment body to form the basis for certification of final production mattresses, mattress pads, and/or mattress sets designed or intended primarily for children 12 years of age or younger, but only if the prototype is the same as the production unit with respect to materials, components, design, and method of assembly. The smoldering ignition rule (16 CFR part 1632) contemplates substitution of materials such as ticking. The ticking substitution test must also be conducted by a CPSC-accepted third party laboratory if used on a mattress and/or mattress pad designed or intended primarily for children 12 years of age or younger.

This notice of requirements is effective on August 18, 2010. Further, as the publication of this notice of requirements effectively lifts the stay of enforcement with regard to testing and

certifications of children's products subject to 16 CFR parts 1632 and/or 1633, each manufacturer of such a product must have any such product manufactured after November 16, 2010 tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance with 16 CFR parts 1632 and/or 1633 based on that testing. (Under the CPSA, the term "manufacturer" includes anyone who manufactures or imports a product.)

This notice of requirements is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553 (*see* section 14(a)(3)(G) of the CPSA, as added by section 102(a)(2) of the CPSIA (15 U.S.C. 2063(a)(3)(G)).

II. Accreditation Requirements

A. Baseline Third Party Conformity Assessment Body Accreditation Requirements

For a third party conformity assessment body to be accredited to test children's products for conformity with the test methods in the regulations identified earlier in part I of this document, it must be accredited by an ILAC–MRA signatory accrediting body, and the accreditation must be registered with, and accepted by, the Commission. A listing of ILAC–MRA signatory accrediting bodies is available on the Internet at *http://ilac.org/membersbycategory.html.* The accreditation must be to ISO Standard ISO/IEC 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories," and the scope of the accreditation must expressly include testing to the regulations in 16 CFR parts 1632, *Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended)* and/or 1633, *Standard for the Flammability (Open Flame) of Mattress Sets.* A true copy, in English, of the accreditation and scope documents demonstrating compliance with the requirements of this notice must be registered with the Commission electronically. The additional requirements for accreditation of firewalled and governmental conformity assessment bodies are described in parts II.B and II.C of this document below.

The Commission will maintain on its Web site an up-to-date listing of third party conformity assessment bodies whose accreditations it has accepted and the scope of each accreditation. Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV below, once the Commission adds a third party conformity assessment body to that list, the third party conformity assessment body may commence testing of children's products to support the manufacturer's certification that the product complies with the regulations identified earlier in part I of this document.

B. Additional Accreditation Requirements for Firewalled Conformity Assessment Bodies

In addition to the baseline accreditation requirements in part II.A of this document above, firewalled conformity assessment bodies seeking accredited status must submit to the Commission copies, in English, of their training documents showing how employees are trained to notify the Commission immediately and confidentially of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue influence over the third party conformity assessment body's test results. This additional requirement applies to any third party conformity assessment body in which a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body owns an interest of ten percent or more. While the Commission is not addressing common parentage of a third party conformity assessment body and a children's product manufacturer at this time, it will be vigilant to see if this issue needs to be addressed in the future.

As required by section 14(f)(2)(D) of the CPSA, the Commission must formally accept, by order, the accreditation application of a third party conformity assessment body before the third party conformity assessment body can become an accredited firewalled conformity assessment body.

C. Additional Accreditation Requirements for Governmental Conformity Assessment Bodies

In addition to the baseline accreditation requirements of part II.A of this document above, the CPSIA permits accreditation of a third party conformity assessment body owned or controlled, in whole or in part, by a government if:

- To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;
- The third party conformity assessment body's testing results are not subject to undue influence by any other person, including another governmental entity;
- The third party conformity assessment body is not accorded more favorable treatment than other third party conformity assessment bodies that have been accredited in the same nation;
- The third party conformity assessment body's testing results are accorded no greater weight by other governmental authorities than those of other accredited third party conformity assessment bodies; and
- The third party conformity assessment body does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the third party conformity assessment body's conformity assessments.

The Commission will accept the accreditation of a governmental third party conformity assessment body if it meets the baseline accreditation requirements of part II.A of this document above and meets the additional conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

III. How Does a Third Party Conformity Assessment Body Apply for Acceptance of Its Accreditation?

The Commission has established an electronic accreditation acceptance and registration system accessed via the Commission's Internet site at *http://www.cpsc.gov/about/cpsia/labaccred.html.* The applicant provides, in English, basic identifying information concerning its location, the type of accreditation it is seeking, electronic copies of its ILAC–MRA accreditation certificate and scope statement, and firewalled third party conformity assessment body training document(s), if relevant.

Commission staff will review the submission for accuracy and completeness. In the case of baseline third party conformity assessment bodies and government-owned or government-operated conformity assessment bodies, when that review and any necessary discussions with the applicant are satisfactorily completed, the third party conformity assessment body in question is added to the CPSC's list of accredited third party conformity assessment bodies at *http://www.cpsc.gov/about/cpsia/labaccred.html.* In the case of a firewalled conformity assessment body seeking accredited status, when the

staff's review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration. (A third party conformity assessment body that may ultimately seek acceptance as a firewalled third party conformity assessment body also can initially request acceptance as a third party conformity assessment body accredited for testing of children's products other than those of its owners.) If the Commission accepts a staff recommendation to accredit a firewalled conformity assessment body, the firewalled conformity assessment body will then be added to the CPSC's list of accredited third party conformity assessment bodies. In each case, the Commission will notify the third party conformity assessment body electronically of acceptance of its accreditation. All information to support an accreditation acceptance request must be provided in the English language.

Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV of this document below, once the Commission adds a third party conformity assessment body to the list, the third party conformity assessment body may then begin testing of children's products to support certification of compliance with the regulations identified earlier in part I of this document for which it has been accredited.

IV. Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation

The Commission will accept a certificate of compliance with the standard included in 16 CFR parts 1632, *Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended)* and/or 1633, *Standard for the Flammability (Open Flame) of Mattress Sets,* based on testing performed by an accredited third party conformity assessment body (including a government-owned or -controlled conformity assessment body, and a firewalled conformity assessment body) prior to the Commission's acceptance of its accreditation if:

- At the time of product testing, the product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an ILAC–MRA member at the time of the test. For firewalled conformity assessment bodies, the firewalled conformity assessment body must be one that the Commission accredited by order at or before the time the product was tested, even though the order will not have included the test methods in the regulations specified in this notice. If the third party conformity assessment body has not been accredited by a Commission order as a firewalled conformity assessment body, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body before it is accredited, by Commission order, as a firewalled conformity assessment body;
- The third party conformity assessment body's application for testing using the test methods in the regulations identified in this notice is accepted by the CPSC on or before October 18, 2010;
- The product was tested on or after August 18, 2010 with respect to the regulations identified in this notice;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to the regulations identified earlier in part I of this document;
- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope the standards described in part I of this notice, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR parts 1632 and/or 1633.

Dated: August 13, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–20507 Filed 8–17–10; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before September 17, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: August 12, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: FRSS 98: District Survey of Distance Education Courses for Public Elementary and Secondary School Students: 2009–10.

OMB #: 1850–0733.

Agency Form Number(s): N/A.

Frequency of Responses: One time.

Affected Public: State, Local, or Tribal Gov't, State Education Agencies (SEAs) or Local Educational Agencies (LEAs).

Estimated Number of Annual Responses: 3,806.

Estimated Annual Burden Hours: 1,182.

Abstract: The National Center for Education Statistics (NCES) in the U.S. Department of Education (ED) proposes to employ the Fast Response Survey System (FRSS) to conduct a district survey about technology-based distance education for public elementary and secondary school students. Two previous iterations of the district survey

Distance Education Courses for Public Elementary and Secondary School Students were conducted by NCES for school years 2002–03 and 2004–05. The proposed survey, for school year 2009–10, is a modified version of the earlier surveys. It will provide nationally representative data on this topic by presenting current information about enrollments in distance education courses in the nation's public elementary and secondary schools, as well as covering tracking and monitoring of student progress in distance education courses, district record-keeping, entities with which districts partner to deliver distance education courses, reasons for having distance education, types of distance education courses, and technologies used to deliver these courses. This survey will provide the only current nationally representative data on this topic.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4379. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title and OMB Control Number of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–20441 Filed 8–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before September 17, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: August 13, 2010.

Sheila Carey,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of English Language Acquisitions

Type of Review: New.

Title of Collection: National Professional Development Program: Grantee Performance Report.

OMB #: 1885–New.

Agency Form Number(s): N/A.

Frequency of Responses: Semi-Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies (SEAs) or Local Educational Agencies (LEAs).

Estimated Number of Annual Responses: 138.

Estimated Annual Burden Hours: 6,900.

Abstract: The purpose is to implement a data collection process for a new semi-annual reporting for Government Performance and Results Act (GPRA) purposes for the National Professional Development Program (NPD). These data are necessary to assess the performance of the National Professional Development in meeting its stated goals and objectives and report to the U.S. Department of Education (ED's) Budget Service. The National Professional Development program provides professional development activities intended to improve instruction for students with limited English proficiency (LEP) and assists education personnel working with such children to meet high professional standards. The National Professional Development program office is submitting this application to request approval to collect information from NPD grantees. The proposed data collection serves two purposes. First, the data are necessary to assess the performance of the National Professional Development program on Government Performance and Results Act (GPRA) measures.

Second, budget information and data on project-specific performance measures are collected from National Professional Development grantees for project-monitoring information.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4335. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title and OMB Control Number of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–20442 Filed 8–17–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act; Notice of Meeting

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of closed meeting agenda.

DATE AND TIME: Wednesday, August 25, 2010. 9–11 a.m. EDT.

PLACE: U.S. Election Assistance Commission, 1201 New York Ave, NW, Washington, D.C. 20005.

AGENDA: Commissioners will hold a closed session discussion regarding a personnel matter on the appointment of an EAC general counsel.

* View EAC Regulations Implementing Government in the Sunshine Act. This meeting will be closed to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2010–20592 Filed 8–16–10; 4:15 pm]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–370]

Application to Export Electric Energy; Vitol Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Vitol Inc. (Vitol) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before September 17, 2010.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–8008).

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) 202–586–5260 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On August 5, 2010, DOE received an application from Vitol for authority to transmit electric energy from the United States to Canada for five years as a power marketer using existing international transmission facilities. Vitol does not own any electric transmission facilities nor does it hold a franchised service area.

The electric energy that Vitol proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies and other entities within the United States. The existing international transmission facilities to be utilized by Vitol have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the Vitol application to export electric energy to Canada should be clearly marked with Docket No. EA–370. Additional copies are to be filed directly with Ronald S. Oppenheimer, General Counsel, Vitol Inc., 1100 Louisiana Street, Suite 5500, Houston, TX 770022 and Catherine Krupka, Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW., Washington, DC 20004. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR Part 1021) and after a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm,* or by e-mailing Odessa Hopkins at *Odessa.hopkins@hq.doe.gov.*

Issued in Washington, DC, on August 12, 2010.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–20440 Filed 8–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Blue Ribbon Commission on America's Nuclear Future, Reactor and Fuel Cycle Technology Subcommittee

AGENCY: Department of Energy, Office of Nuclear Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Reactor and Fuel Cycle Technology (RFCT) Subcommittee. The RFCT Subcommittee is a subcommittee of the Blue Ribbon Commission on America's Nuclear Future (the Commission). The establishment of subcommittees is authorized in the Commission's charter. The Commission was organized pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES: Monday, August 30, 2010, 8 a.m.–3:30 p.m.; Tuesday, August 31, 2010, 8 a.m.–4:15 p.m.

ADDRESSES: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy A. Frazier, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202) 586–4243 or facsimile (202) 586–0544; e-mail *CommissionDFO@nuclear.energy.gov.* Additional information will be available at *http://www.brc.gov.*

SUPPLEMENTARY INFORMATION: *Background:* The President directed that the Commission be established to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle. The Commission will provide advice and make recommendations on issues including alternatives for the storage, processing, and disposal of civilian and defense spent nuclear fuel and nuclear waste.

The Co-chairs of the Commission requested the formation of the RFCT Subcommittee to answer the question:

"[d]o technical alternatives to today's once-through fuel cycle offer sufficient promise to warrant serious consideration and R&D investment, and do these technologies hold significant potential to influence the way in which used fuel is stored and disposed?"

Purpose of the Meeting: The meeting will primarily focus on commercial technology options for reactor and fuel cycle technologies and what actions could be taken to enable first movers in these technologies. This meeting will also address the role local communities and governments should play in the development and demonstration of new nuclear technologies and the key safety, environmental and security concerns for local communities, and how these concerns should be addressed. Additionally the meeting will also address issues of the U.S. manufacturing sector and the labor force's ability to support new reactor and fuel cycle technologies.

Tentative Agenda: The meeting is expected to start at 8 a.m. on August 30th with panel presentations beginning at 8:15 and ending at 3:30 p.m. The meeting is expected to reconvene at 8 a.m. on August 31st with panel presentations through 3 p.m., with a public comment period from 3 p.m. through 4 p.m.

Public Participation: Subcommittee meetings are not required to be open to the public; however, the Commission has elected to open the presentation sessions of the meeting to the public. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the public session on Tuesday, August 31, 2010. Approximately 1 hour will be reserved for public comments from 3 p.m. to 4 p.m. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 7:30 a.m. on August 31, 2010, at the Washington Marriott. Registration to speak will close at noon, August 31, 2010.

Those not able to attend the meeting or have insufficient time to address the subcommittee are invited to send a written statement to Timothy A. Frazier, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585, e-mail to *CommissionDFO@nuclear.energy.gov*, or post comments on the Commission Web site at *http://www.brc.gov.*

Additionally, the meeting will be available via live video webcast. The link will be available at *http://www.brc.gov.*

Minutes: The minutes of the meeting will be available at *http://www.brc.gov* or by contacting Mr. Frazier. He may be reached at the postal address or e-mail address above.

Issued in Washington, DC on August 12, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–20432 Filed 8–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Advisory Board (EMAB). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 15, 2010, 9 a.m.–5 p.m.

ADDRESSES: La Fonda on the Plaza, 100 East San Francisco Street, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Terri Lamb, Designated Federal Officer, EMAB (EM–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone (202) 586–9007; fax (202) 586–5591 or e-mail: *terri.lamb@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of EMAB is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on corporate issues confronting the EM program. EMAB will contribute to the effective operation of the program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing EM and by helping to secure consensus recommendations on those issues.

Tentative Agenda Topics:

- EM Program Update.
- EMAB Tank Waste Subcommittee Report.
- Acquisition and Project Management Panel.
- EMAB Acquisition and Project Management Subcommittee Report.
- Board Business and Subcommittee Updates.

Public Participation: EMAB welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Terri Lamb at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda should contact Terri Lamb at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Terri Lamb at the address or phone number listed above. Minutes will also be available at the following Web site *http://www.em.doe.gov/stakepages/emabmeetings.aspx.*

Issued at Washington, DC on August 11, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–20434 Filed 8–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Portsmouth

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, September 2, 2010, 6 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: Joel Bradburne, Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661,

(740) 897–3822, *Joel.Bradburne@lex.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

- Call to Order, Introductions, Review of Agenda.
- Approval of May Minutes.
- Deputy Designated Federal Officer's Comments.
- Federal Coordinator's Comments.
- Liaisons' Comments.
- Administrative Issues:
  - Subcommittee Updates.
  - Recommendation on Baseline Funding Support.
  - Motions.
    - First reading of amendment to the Operating Procedures.
- Public Comments.
- Final Comments.
- Adjourn.

Breaks taken as appropriate.

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Joel Bradburne at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Joel Bradburne at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Joel Bradburne at the address and phone number listed above. Minutes will also be available at the following website: *http://www.ports-ssab.org/publicmeetings.html.*

Issued at Washington, DC on August 11, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–20437 Filed 8–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 8, 2010, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Patricia J. Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–2347 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The main meeting presentation will be on DOE–Oak Ridge long-term stewardship activities.

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Patricia J. Halsey at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Patricia J. Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Patricia J. Halsey at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/minutes.htm.*

Issued at Washington, DC on August 11, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–20435 Filed 8–17–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IC10–917–001 and IC10–918–001]

Commission Information Collection Activities (FERC–917 and FERC–918) [1]; Comment Request; Submitted for OMB Review

August 12, 2010.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission or FERC) has submitted the information collections described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (75 FR 30008, 5/28/2010) requesting public comments. FERC received no comments on the FERC–917 and FERC–918 and has made this notation in its submission to OMB.[1]

[1] This Notice in Docket Nos. IC10–917 and IC10–918 and the corresponding clearance package and request to OMB for a three-year extension of the existing regulations are separate activities from pending Docket No. RM10–23 and the associated OMB clearance package.

FERC has a separate, pending Notice of Proposed Rulemaking (NOPR) in Docket No. RM10–23, that includes proposals affecting the FERC–917. The NOPR in Docket No. RM10–23 and the corresponding OMB clearance package were submitted to OMB (ICR No. 201006–1902–001) for review on 6/30/2010. Comments on Docket No. RM10–23 should be submitted in that docket.

DATES: Comments on the collections of information are due by September 17, 2010.

ADDRESSES: Address comments on the collections of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include OMB Control Number 1902–0233 for reference. For comments that pertain to only one of the collections, specify the appropriate collection. The Desk Officer may be reached by telephone at 202–395–4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket Nos. IC10–917–001 and IC10–918–001. (If comments apply to only one of the collections, indicate the docket and the collection number.) Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide/electronic-media.asp.* To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket Nos. IC10–917–001 and IC10–918–001.

Users interested in receiving automatic notification of activity in FERC Docket Numbers IC10–917 and IC10–918 may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp.* All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the "eLibrary" link. For user assistance, contact *ferconlinesupport@ferc.gov,* or call toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by e-mail at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: On February 17, 2007, the Commission issued Order No. 890 to address and remedy opportunities for undue discrimination under the pro forma Open Access Transmission Tariff (OATT) adopted in 1996 by Order No. 888.[2]

Through Order No. 890, the Commission:

(1) Adopted pro forma OATT provisions necessary to keep imbalance charges closely related to incremental costs;

(2) Increased nondiscriminatory access to the grid by requiring public utilities, working through the North American Electric Reliability Corporation (NERC), to develop consistent methodologies for available transfer capability (ATC) calculation and to publish those methodologies to increase transparency.

(3) Required an open, transparent, and coordinated transmission planning process, thereby increasing the ability of customers to access new generating resources and promote efficient utilization of transmission.

(4) Required both the transmission provider's merchant function and network customers to include a statement with each application for network service or to designate a new network resource that attests, for each network resource identified, that the transmission customer owns or has committed to purchase the designated network resource and the designated network resource comports with the requirements for designated network resources.

(5) Gave the right to customers to request from transmission providers studies addressing congestion and/or integration of new resource loads in areas of the transmission system where they have encountered transmission problems due to congestion or where they believe upgrades and other investments may be necessary to reduce congestion and to integrate new resources. The network customer includes this attestation in the customer's comment section of the request when it confirms the request on the Open Access Same-Time Information System (OASIS).

(6) Required with regard to capacity reassignment that: (a) All sales or assignments of capacity be conducted through or otherwise posted on the transmission provider's OASIS on or before the date the reassigned service commences; (b) assignees of transmission capacity execute a service agreement prior to the date on which the reassigned service commences; and (c) transmission providers aggregate and summarize in an electric quarterly report the data contained in these service agreements.

(7) Adopted an operational penalties annual filing that provides information regarding the penalty revenue the transmission provider has received and distributed.

(8) Required creditworthiness information to be included in a transmission provider's OATT. Attachment L must specify the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required.

The Commission required a NERC/NAESB [3] team to draft and review Order No. 890 reliability standards and business practices. The team was to solicit comment from each utility on developed standards and practices and utilities were to implement each, after Commission approval. Public utilities, working through NERC, were to revise reliability standards to require the exchange of data and coordination among transmission providers and, working through NAESB, were to develop complementary business practices.

Required OASIS postings included:

(1) Explanations for changes in ATC values;

(2) Capacity benefit margin (CBM) reevaluations and quarterly postings;

(3) OASIS metrics and accepted/denied requests;

(4) Planning redispatch offers and reliability redispatch data;

(5) Curtailment data;

(6) Planning and system impact studies;

(7) Metrics for system impact studies; and

(8) All rules.

Incorporating the Order No. 890 standards into the Commission's

[2] *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,* Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g,* Order No. 888–A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC,* 535 U.S. 1 (2002).

[3] NAESB is the North American Energy Standards Board.

regulations benefits wholesale electric customers by streamlining utility business practices, transactional processes, and OASIS procedures, and by adopting a formal ongoing process for reviewing and upgrading the Commission's OASIS standards and other electric industry business practices. These practices and procedures benefit from the implementation of generic industry standards.

The Commission's Order No. 890 regulations can be found in 18 CFR 35.28 (pro forma tariff requirements), and 37.6 and 37.7 (OASIS requirements).

Action: The Commission is requesting a three-year extension of the current FERC–917 and FERC–918 reporting requirements, with no change.

Burden Statement: FERC–917 and FERC–918 are both included in OMB Control Number 1902–0233. The estimated annual public reporting burdens for FERC–917 (requirements in 18 CFR 35.28) and FERC–918 (requirements in 18 CFR 37.6 and 37.7) are reduced from the original estimates made three years ago. The reductions are due to the incorporation and completion of: (1) One-time pro forma tariff changes by utilities in existence at that time; (2) completed development and comment solicitation of the required NERC/NAESB reliability standards and business practices; and (3) the transfer of burden associated with the implementation of some of the NERC/NAESB business practices, in Order No. 729, issued November 11, 2009,[4] to the Commission's FERC–725A information collection (OMB Control Number 1902–0244). The estimated annual figures follow.

FERC Information collection	Annual number of respondents (1)	Average number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
18 CFR 35.28 (FERC–917)				
Conforming tariff changes	6	1	25	150
Revision of Imbalance Charges	6	1	5	30
ATC revisions	6	1	40	240
Planning (Attachment K)	134	1	100	13,400
Congestion studies	134	1	300	40,200
Attestation of network resource commitment	134	1	1	134
Capacity reassignment	134	1	100	13,400
Operational Penalty annual filing	134	1	10	1,340
Creditworthiness—include criteria in the tariff	6	1	40	240
FERC–917—Sub Total Part 35				69,134
18 CFR 37.6 & 37.7 (FERC–918)				
ATC-related standards:				
NERC/NAESB Team to develop	0	0	0	0
Review and comment by utility	0	0	0	0
Implementation by each utility[4]	0	0	0	[4] 0
Mandatory data exchanges	134	1	80	10,720
Explanation of change of ATC values	134	1	100	13,400
Reevaluate CBM and post quarterly	134	1	20	2,680
Post OASIS metrics; requests accepted/denied	134	1	90	12,060
Post planning redispatch offers and reliability redispatch data	134	1	20	2,680
Post curtailment data	134	1	10	1,340
Post Planning and System Impact Studies	134	1	5	670
Posting of metrics for System Impact Studies	134	1	100	13,400
Post all rules to OASIS	134	1	5	670
FERC–918—Sub Total of Part 37 Reporting Requirements				57,620
FERC–918—Recordkeeping Requirements	134	1	40	5,360
FERC–918—Sub Total of Reporting and Recordkeeping Requirements				62,980
Total FERC–917 and FERC–918 (Part 35 + Part 37, Reporting and Recordkeeping Requirements)				132,114

Total combined annual burden for FERC–917 and FERC–918 is 132,114 hours (126,754 reporting hours + 5,360 recordkeeping hours). This is a reduction of 24,922 hours from the combined FERC–917 and FERC–918 burden OMB previously approved.

[4] *Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System,* Order No. 729, 74 FR 64884 (Dec. 3, 2009) 129 FERC ¶ 61,155.

The FERC–725A requirements (Mandatory Reliability Standards for the Bulk-Power System, which now includes the utilities' implementation) are separate and are not a subject of this Notice in Docket Nos. IC10–917 and IC10–918. The FERC–725A reporting and recordkeeping requirements in Order 729 (Docket No. RM08–19, *et al.*) were approved by OMB (in ICR Number 200912–1902–005) on 3/12/2010.

Total combined estimated annual cost for FERC–917 and FERC–918 is $21,941,076.[5] This includes:

(1) Reporting costs of $14,449,956; (126,754 hours @ $114 an hour (average cost of attorney ($200 per hour), consultant ($150), technical ($80), and administrative support ($25)) and

(2) Recordkeeping (labor and storage) costs of $7,491,120 (labor = $91,120 [for 5,360 hours × $17/hour (file/record clerk @ $17 an hour)] and off-site storage costs = $7,400,000 (8,000 sq. ft. × $925/sq. ft.)).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to the collections of information; (5) searching data sources; (6) completing and reviewing the collections of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20458 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

[5] Using the hourly rate figures of the Bureau of Labor Statistics, occupational series and market rates as applicable, the hourly rate is a composite of the respondents who will be responsible for implementing and responding to the collection of information (support staff, engineering, and legal).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–479–000]

Columbia Gas Transmission, LLC; Notice of Application

August 12, 2010.

Take notice that on August 5, 2010, Columbia Gas Transmission Corporation (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed in Docket No. CP10–479–000 an application, pursuant to section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon by transfer and by sale certain natural gas facilities located in Pennsylvania and West Virginia and to abandon the services being provided through these facilities. Columbia also requests that the Commission find certain facilities, when sold, as exempt from the Commission's jurisdiction pursuant to section 1(c) of the NGA, as more fully set forth in the application which is open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Columbia proposes to: (1) Abandon by transfer to NiSource Midstream Services, LLC (NMS), a non-jurisdictional affiliate of Columbia, on its Line 1528 approximately 3.8 miles of 16-inch diameter pipeline and appurtenances in Marshall County, West Virginia, and Greene County, Pennsylvania, at their net book value of $2,700,000; (2) transfer measurement facilities in Marshall County to NMS; (3) abandon by sale to Texas Eastern Transmission, L.P. (Texas Eastern), approximately 2 miles of 16-inch pipeline on Columbia's Line 1528 in Marshall County and Greene County; and (4) seek a determination that NMS' acquired segment of Line 1528 would be part of the upstream gathering system and exempt from the Commission's jurisdiction under the NGA. Columbia states that no construction or removal of facilities would be required in this proposal.

Any questions regarding this application should be directed to Frederic J. George, Senior Counsel, Columbia Gas Transmission, LLC, P.O. Box 1273, Charleston, West Virginia 25325–1273, or via telephone at (304) 357–2359 and facsimile number (304) 357–3206.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process.

Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

Comment Date: September 2, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20455 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–476–000]

Natural Gas Pipeline Company of America LLC; Notice of Application

August 12, 2010.

Take notice that on July 30, 2010, Natural Gas Pipeline Company of America LLC (Natural Gas), 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, filed an application pursuant to section 7(b), and sections 157.7 and 157.18 of the Commission's regulations under the Natural Gas Act (NGA) for authorization to: (1) Plug and abandon an injection and withdrawal (I/W) well and abandon and remove related meter facilities and cut, cap and retire in place the related lateral at Natural Gas' Herscher Galesville Storage Reservoir located in Kankakee County, Illinois; and (2) abandon four I/W wells and abandon and remove related meter facilities and cut, cap and retire in place related laterals at Natural Gas' Herscher Mount Simon Storage Reservoir located in Kankakee County, Illinois, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, Natural Gas states that four of the five I/W wells proposed to be abandoned are to be subsequently converted to observation wells.

Any questions regarding the application should be directed to Bruce Newsome, Vice President, Regulatory Products and Services, Natural Gas Pipeline Company of America LLC, 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, by telephone at (630) 725–3070, or by e-mail at *bruce_newsome@kindermorgan.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven 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: September 2, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20452 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 739–022–VA]

Appalachian Power Company; Notice of Availability of Environmental Assessment

August 12, 2010.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for a new license for the Claytor Hydroelectric Project, located on the New River in Pulaski County, Virginia, and prepared a draft environmental assessment (DEA). In the DEA, Commission staff analyze the potential environmental effects of licensing the project and conclude that issuing a license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix "Claytor Project No. 739–022" to all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "eFiling" link. For further information, contact John Smith at (202) 502–8972.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20460 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2677–019]

City of Kaukauna, WI; Notice of Availability of Environmental Assessment

August 12, 2010.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the 8-megawatt (MW) Badger-Rapide Croche Hydroelectric Project located on the Fox River in Outagamie County, Wisconsin, and has prepared a Final Environmental Assessment (EA) in cooperation with the U.S. Army Corps of Engineers. In the EA, Commission staff analyzes the potential environmental effects of relicensing the project and conclude that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The final EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. For further information, contact John Smith at (202) 502–8972.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20461 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–79–000]

National Fuel Gas Distribution Corporation; Notice of Baseline Filing

August 12, 2010.

Take notice that on August 10, 2010, National fuel Gas Distribution Corporation submitted a baseline filing of its Statement of Operating Conditions for services provided under Section 311 of the Natural Gas Policy Act of 1978 ("NGPA").

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on Monday, August 23, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20462 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–73–000]

BE Louisiana, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

August 12, 2010.

On August 11, 2010, the Commission issued an order that instituted a proceeding in Docket No. EL10–73–000, pursuant to section 206 of the Federal Power Act (FPA), 16 USC 824e, to determine whether the J.P. Morgan Sellers' [1] market-based rate authority in the Cleco Corporation, Inc. balancing authority area remains just and reasonable. *BE Louisiana, LLC,* 132 FERC ¶ 61,118 (2010).

The refund effective date in Docket No. EL10–73–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Kimberly J. Bose,

Secretary.

[FR Doc. 2010–20456 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–74–000]

Dogwood Energy, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

August 12, 2010.

On August 11, 2010, the Commission issued an order that instituted a proceeding in Docket No. EL10–74–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, to determine whether Dogwood Energy, LLC's market-based rate authority in the KCP&L Greater Missouri Operations Company balancing authority area remains just and reasonable. *Dogwood Energy, LLC,* 132 FERC ¶ 61,120 (2010).

The refund effective date in Docket No. EL10–74–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Kimberly J. Bose,

Secretary.

[FR Doc. 2010–20457 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–459–000]

ETC Tiger Pipeline, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed ETC Tiger Pipeline Expansion Project—Phase I and Request for Comments on Environmental Issues

August 12, 2010.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the ETC Tiger Pipeline Expansion Project—Phase I, involving construction and operation of facilities by ETC Tiger Pipeline, LLC (Tiger) in Bienville, Jackson, Ouachita, and Red River Parishes in Louisiana. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on September 13, 2010.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Tiger provided to landowners. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Tiger has proposed Phase I of the ETC Tiger Pipeline Expansion Project to construct two pipeline loops of the ETC Tiger Pipeline and add compression at three compressor stations. The pipeline construction would consist of: Loop 1—approximately 8.2 miles of new 42-inch diameter loop [1] in Bienville Parish, Louisiana (LA); and Loop 2—approximately 12.3 miles of new 42-inch diameter pipeline in Jackson and Ouachita Parishes, LA. Associated aboveground facilities consisting of side valves, crossover piping, pig launchers [2] and receivers would be constructed at each end of the pipeline loops.

In addition, Tiger would install additional compression at the following existing compressor stations: Approximately 4,735 horsepower (hp) at the Cannisnia Compressor Station in Red River Parish, LA; approximately 8,180 hp of compression at the Bienville Compressor Station in Bienville Parish, LA; and approximately 17,650 hp of compression at the Chatham Compressor Station in Jackson Parish, LA. The Project would add 0.4 billion cubic feet/day of natural gas capacity to Tiger's system.

The general location of the project facilities is shown in Appendix 1.[3]

[1] For purposes of this notice, the J.P. Morgan Sellers are BE Louisiana, LLC, Cedar Brakes I, L.L.C., Cedar Brakes II, L.L.C., J.P. Morgan Commodities Canada Corporation, J.P. Morgan Ventures Energy Corporation, and Utility Contract Funding, L.L.C.

[1] A pipeline loop is a segment of new pipeline constructed parallel to an existing pipeline to increase capacity.

[2] A "pig" is a tool that is inserted into and moves through the pipeline, and is used for cleaning the pipeline, internal inspections, or other purposes.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Land Requirements for Construction

Construction of the proposed facilities would disturb approximately 383 acres of previously disturbed rights-of-way and existing industrial land for the aboveground facilities and the pipeline and approximately 4 acres of undisturbed land. Following construction, about 150 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses. The entire proposed pipeline route parallels the existing Tiger Pipeline right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Endangered and threatened species;
- Air quality and noise; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project is further developed. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC, on or before September 13, 2010.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP10–459–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to *Documents and Filings.* With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, Louisiana State, and local Parish government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive

[4] "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "e-filing" link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *http://www.ferc.gov* using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP10–459). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20451 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 405–097]

Exelon Generation Company, LLC; Notice of Panel Meeting and Technical Conference Details

August 12, 2010.

On August 3, 2010, Commission staff, in response to the filing of a notice of study dispute by the Maryland Department of Environment (Maryland DOE) convened a single three-person Dispute Resolution Panel (Panel) pursuant to 18 CFR 5.14(d). Maryland DOE disputed the Commission's study determinations on the following studies: (1) Seasonal and diurnal water quality in Conowingo Pond and below Conowingo dam (study 3.1); (2) downstream fish passage effectiveness study (study 3.2); (3) hydrologic study of the lower Susquehanna River (study 3.11); and (4) characterization of downstream aquatic communities (study 3.18). On July 21, 2010, the Commission issued a Notice of Dispute Resolution Process Schedule, Panel Meeting and Technical Conference. The technical conference date is repeated below with additional logistical details.

The purpose of the technical conference is for the disputing agencies, applicants, and Commission to provide the Panel with additional information necessary to evaluate the disputed study. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to attend the meeting as observers. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at its discretion, limit the speaking time for each participant.

Technical Conference

Date: Tuesday, August 31, 2010.

Time: 8:30 a.m.–5 p.m.

Place: Darlington Fire Station, 2600 Castleton Road, Darlington, Maryland.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20459 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–478–000]

Colorado Interstate Gas Company; Notice of Request Under Blanket Authorization

August 12, 2010.

Take notice that on August 3, 2010, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP10–478–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's (Commission) Regulations under the Natural Gas Act for authorization to abandon, by removal, the previously abandoned above-ground facilities at the Fourway Compressor Station, located in Moore County, Texas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, CIG proposes to abandon, by removal, all of the aboveground facilities including the following facilities: Five abandoned-in-place 1,320 Horsepower compressor units, office, shop, warehouse, auxiliary building, compressor building, foundations and basements, as well as other facilities. CIG proposes to remove all above-ground facilities with the exception of two functioning pigging facilities, which service the existing and operating Line No. 3A (Fourway to Kit Carson Line) and Line No. 193A (Plum Creek Lateral). CIG declares that the proposed removal activities will take place entirely within the station yard. CIG estimates the cost to complete the removal of the Fourway Compressor Station to be approximately $3.8 million. CIG avers that subsequent to the abandonment in place, the Fourway facilities have been vandalized. To deter future vandalism, CIG believes that it is prudent to remove the aboveground facilities at the station.

Any questions regarding the application should be directed to Susan C. Stires, Director, Regulatory Affairs Department, Post Office Box 1087, Colorado Interstate Gas Company,

Colorado Springs, Colorado 80944, at (719) 667–7514.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20454 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP10–940–000]

ANR Pipeline Company; Notice of Technical Conference

August 11, 2010.

By order dated July 30, 2010 [1] the Federal Energy Regulatory Commission ordered a technical conference in the captioned proceeding. The conference will be held on Wednesday, September 15, 2010 at the Commission's headquarters at 888 First Street, NE., Washington, DC 20426, beginning at 9 in a room to be identified. The conference will address the matters of the transportation charges for the handling and transporting of Associated Liquids discussed in the July 30, 2010 order.

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 1–866–208–3372 (voice) or 202–208–1659 (TTY); or send a FAC to 202–208–2106 with the required accommodations. For further information contact John M. Robinson at 202–502–6808 or Frank Sparber at 202–502–8335.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20376 Filed 8–17–10; 8:45 am]

BILLING CODE 6717–01–P

[1] *ANR Pipeline Company,* 132 FERC ¶ 61,090 (2010).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0597; FRL–8840–4]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions were granted during the period October 1, 2009 to June 30, 2010 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of a contact person. The following information applies to all contact persons: Team Leader, Emergency Response Team, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9366.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0597. Publicly available docket materials are available either electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Background

EPA has granted emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific.

Under FIFRA section 18, EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A "specific exemption" authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. "Quarantine" and "public health" exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.

3. A "crisis exemption" is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in "a reasonable certainty of no harm" to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the "reasonable certainty of no harm standard" of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency granted the exemption, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions

A. U. S. States and Territories

California

Environmental Protection Agency, Department of Pesticide Regulation
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; October 2, 2009 to October 1, 2010. Contact: Stacey Groce.

EPA authorized the use of boscalid on Belgian endive to control *Sclerotinia sclerotiorum*; November 13, 2009 to February 15, 2010. *Contact*: Stacey Groce.

EPA authorized the use of pyraclostrobin on Belgian endive to control *Sclerotinia sclerotiorum*; November 13, 2009 to February 15, 2010. *Contact:* Stacey Groce.

EPA authorized the use of 1-naphthaleneacetic acid on avocado to suppress excessive branch growth (sprout inhibition); April 16, 2010 to April 16, 2011. *Contact*: Marcel Howard.

EPA authorized the use of propiconazole on peach and nectarine to control sour rot; May 4, 2010 to November 30, 2010. Contact: Andrea *Conrath*.

EPA authorized the use of avermectin on lima beans to control two-spotted spider mite; May 19, 2010 to August 31, 2010. *Contact*: Marcel Howard.

Colorado

Department of Agriculture
Specific exemption: EPA authorized the use of abamectin on dry bulb onions to control thrips; March 12, 2010 to September 30, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 30, 2010. *Contact*: Keri Grinstead.
Quarantine: EPA authorized the use of Environ LpH (containing the active ingredients ortho-benzyl para-chlorophenol, para-tertiatry-amylphenol, and ortho-phenylphenol in laboratories to control prions; April 15, 2010, to April 15, 2013. *Contact*: Princess Campbell.

Florida

Department of Agriculture and Consumer Services
Specific exemption: EPA authorized the use of novaluron on strawberries to control sap beetles; December 31, 2009 to December 31, 2010. *Contact*: Marcel Howard.
Quarantine: EPA authorized the use of metconazole on sugarcane to control orange rust (*Puccinia kuehnii*); October 1, 2009, to December 31, 2011. *Contact*: Libby Pemberton.

EPA authorized the use of pyraclostrobin on sugarcane to control orange rust (*Puccinia kuehnii*); October 1, 2009, to December 31, 2011. *Contact*: Libby Pemberton.

Idaho

Department of Agriculture
Crisis: On June 24, 2010, for the use of diflubenzuron on alfalfa to control grasshoppers and Mormon crickets. A specific exemption request has been submitted to the Agency and this program is expected to end on October 31, 2010. *Contact*: Andrea Conrath.
Specific exemption: EPA authorized the use of linuron on lentils to control mayweed chamomile or dog fennel (*Anthemis cotula*) and prickly lettuce (*Lactuca serriola L.*); December 30, 2009 to June 20, 2010. *Contact*: Andrea Conrath.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of hexythiazox on sweet corn to control mites; May 27, 2010 to August 20, 2010. *Contact*: Stacey Groce.

Illinois

Department of Agriculture
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; October 2, 2009 to October 1, 2010. *Contact*: Stacey Groce.

EPA authorized the use of mandipropamid on basil to control downy mildew; May 28, 2010 to October 15, 2010. *Contact*: Marcel Howard.

EPA authorized the use of cyazofamid on basil to control downy mildew; June 15, 2010 to October 15, 2010. *Contact*: Marcel Howard.

Indiana

Office of Indiana State Chemist
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; April 15, 2010 to October 1, 2010. *Contact*: Stacey Groce.

Iowa

Department of Agriculture and Land Stewardship
Specific exemption: EPA authorized the use of sulfentrazone on strawberry to control broadleaf weeds; June 25, 2010 to December 15, 2010. *Contact*: Andrea Conrath.

Kentucky

Department of Agriculture
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; November 20, 2009 to October 1, 2010. *Contact*: Stacey Groce.

Louisiana

Department of Agriculture and Forestry
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel crows and blackbird species; February 23, 2010 to February 23, 2011. *Contact*: Marcel Howard.

EPA authorized the use of anthraquinone on rice seed to repel blackbird species; April 1, 2010 to April 1, 2011. *Contact*: Marcel Howard.

Massachusetts

Department of Food and Agriculture
Specific exemption: EPA authorized the use of quinclorac on cranberries to control dodder; March 12, 2010 to July 31, 2010. Contact: *Marcel Howard*.

Michigan

Department of Agriculture
Crisis: On June 17, 2010, for the use of spinosad on wooded areas to control emerald ash borer. This program ended on July 1, 2010. *Contact*: Libby Pemberton.
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel sand hill cranes; February 1, 2010 to January 21, 2011. *Contact*: Marcel Howard.

EPA authorized the use of kasugamycin on apples to control fire blight; April 22, 2010 to April 1, 2011. *Contact*: Keri Grinstead.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 30, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of abamectin on dry bulb onions to control thrips; June 14, 2010 to September 30, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of sulfentrazone on strawberry to control broadleaf weeds; June 25, 2010 to December 15, 2010. *Contact*: Andrea Conrath.

Minnesota

Department of Agriculture
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; February 18, 2010 to October 1, 2010. *Contact*: Stacey Groce.

EPA authorized the use of anthraquinone on field and sweet corn seed to repel sand hill cranes; February 26, 2010 to February 26, 2011. *Contact*: Marcel Howard.

Mississippi

Department of Agriculture and Commerce
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel crows and blackbird species; March 12, 2010 to March 12, 2011. *Contact*: Marcel Howard.

Missouri

Department of Agriculture
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; February 18, 2010 to October 1, 2010. *Contact*: Stacey Groce.

Nevada

Department of Agriculture
Specific exemption: EPA authorized the use of spirotetramat on dry bulb onions to control thrips; June 7, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

New Hampshire

Department of Agriculture
Crisis: On March 11, 2010, for the use of sodium hypochlorite on surfaces and items to control *Bacillus anthracis*. This program ended on March 30, 2010. *Contact*: Princess Campbell.

New Jersey

Department of Environmental Protection
Specific exemption: EPA authorized the use of quinclorac on cranberries to control dodder; April 19, 2010 to December 15, 2010. *Contact*: Marcel Howard.

New Mexico

Department of Agriculture
Specific exemption: EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to October 31, 2010. *Contact*: Keri Grinstead.

New York

Department of Environmental Conservation
Specific exemption: EPA authorized the use of abamectin on dry bulb onions to control thrips; March 12, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

North Dakota

Department of Agriculture
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel ring-necked pheasants; April 7, 2010 to April 7, 2011. *Contact*: Marcel Howard.

EPA authorized the use of sulfentrazone on flax to control kochia; May 7, 2010 to June 30, 2010. *Contact*: Andrea Conrath.

Ohio

Department of Agriculture
Specific exemption: EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of sulfentrazone on strawberry to control broadleaf weeds; June 20, 2010 to December 15, 2010. *Contact*: Andrea Conrath.

Oklahoma

Department of Agriculture
Specific exemption: EPA authorized the use of nicosulfuron on Bermudagrass and hayfields to control sandbur species; April 1, 2010 to June 30, 2010. *Contact*: Stacey Groce.

Oregon

Department of Agriculture
Specific exemption: EPA authorized the use of fenpyroximate in beehives to control varroa mites; October 8, 2009 to October 1, 2010. *Contact*: Stacey Groce.

EPA authorized the use of fenoxaprop-p-ethyl on grasses grown for seed to control annual grassy weeds; February 12, 2010 to September 20, 2010. *Contact*: Andrea Conrath.

EPA authorized the use of sulfentrazone on strawberry to control broadleaf weeds; March 24, 2010 to February 28, 2010. *Contact*: Andrea Conrath.

EPA authorized the use of fipronil on rutabaga and turnip to control the cabbage maggot; April 15, 2010 to September 30, 2010. *Contact*: Andrea Conrath.

EPA authorized the use of bifenthrin on orchardgrass to control the orchardgrass billbug; April 15, 2010 to November 15, 2010. *Contact*: Andrea Conrath.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

South Dakota

Department of Agriculture
Crisis: On June 14, 2010, for the use of diflubenzuron on alfalfa to control grasshoppers and Mormon crickets. A specific exemption request has been submitted to the Agency and this program is expected to end on October 31, 2010. *Contact*: Andrea Conrath.
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel ring-necked pheasants; April 7, 2010 to April 7, 2011. *Contact*: Marcel Howard.

EPA authorized the use of anthraquinone on sunflower seed to repel ring-necked pheasants; April 15, 2010 to April 15, 2011. *Contact*: Marcel Howard.

Texas

Department of Agriculture
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel sand hill cranes; March 8, 2010 to March 8, 2011. *Contact*: Marcel Howard.

EPA authorized the use of nicosulfuron on Bermudagrass and hayfields to control sandbur species; April 1, 2010 to June 30, 2010. *Contact*: Stacey Groce.

EPA authorized the use of dinotefuran on rice to control rice stink bug (*Oebalus pugnax*); May 14, 2010 to October 30, 2010. *Contact*: Libby Pemberton.
Quarantine: EPA authorized the use of fipronil in an expansion of the registered use around outside structures up to 10 feet up and out to control a newly-introduced strain or species of Caribbean crazy ant; October 21, 2009, to October 21, 2012. *Contact*: Andrea Conrath.

EPA authorized the use of metconazole on sugarcane to control orange rust (*Puccinia kuehnii*); June 14, 2010, to June 14, 2013. *Contact*: Libby Pemberton.

EPA authorized the use of pyraclostrobin on sugarcane to control orange rust (*Puccinia kuehnii*); June 14, 2010, to June 14, 2013. *Contact*: Libby Pemberton.

Utah

Department of Agriculture
Specific exemption: EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 1, 2010. *Contact*: Keri Grinstead.

Vermont

Department of Agriculture
Crisis: On April 26, 2010, for the use of anthraquinone on field and sweet corn seed to repel crow and blackbird species. A specific exemption request

has been submitted to the Agency and this program is expected to end on December 31, 2010. *Contact*: Marcel Howard.

Washington

Department of Agriculture
Specific exemption: EPA authorized the use of linuron on lentils to control mayweed chamomile or dog fennel (*Anthemis cotula*) and prickly lettuce (*Lactuca serriola L.*); December 30, 2009 to June 20, 2010. Contact: Andrea Conrath.

EPA authorized the use of sulfentrazone on strawberry to control broadleaf weeds; March 24, 2010 to February 28, 2011. *Contact*: Andrea Conrath.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of abamectin on dry bulb onions to control thrips; June 14, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

Wisconsin

Department of Agriculture, Trade, and Consumer Protection
Crisis: On May 21, 2010, for the use of zoxamide on ginseng to control phytophthora blight. This program ended on June 5, 2010. *Contact*: Stacey Groce.
Specific exemption: EPA authorized the use of anthraquinone on field and sweet corn seed to repel sand hill cranes; February 26, 2010 to February 26, 2011. *Contact*: Marcel Howard.

EPA authorized the use of fenpyroximate in beehives to control varroa mites; March 9, 2010 to October 1, 2010. *Contact*: Stacey Groce.

EPA authorized the use of abamectin on dry bulb onions to control thrips; March 12, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of spirotetramat on dry bulb onions to control thrips; May 5, 2010 to September 15, 2010. *Contact*: Keri Grinstead.

EPA authorized the use of sulfentrazone on strawberry to control broadleaf weeds; June 20, 2010 to December 15, 2010. *Contact*: Andrea Conrath.

Wyoming

Department of Agriculture
Crisis: On May 28, 2010, for the use of diflubenzuron on alfalfa to control grasshoppers and Mormon crickets. A specific exemption request has been submitted to the Agency and this program is expected to end on October 31, 2010. *Contact*: Andrea Conrath.

B. Federal Departments and Agencies

Agriculture Department

Animal and Plant Health Inspection Service (APHIS)
Crisis: On May 4, 2010, for the use of methyl bromide on imported avocados, bananas, opuntia, plantains, bulb vegetables, edible cacti, Brassica leafy vegetables, cucurbit vegetables, leafy vegetables, leaves of root and tuber vegetables, root and tuber vegetables, edible podded legume vegetables, figs, fresh herbs and spices, ivy gourd, Kaffir lime leaves, kiwi fruit, longan, lychee fruit, fresh and dried mint, okra, pomegranate, pointed gourd, rambutan, seeds in the family Malvacceae, small fruits and berries, and stone fruit to control various plant pests not currently established in the United States. APHIS has submitted a quarantine exemption to the Agency and this program is expected to end on May 4, 2011. *Contact*: Libby Pemberton.

On June 5, 2010, for the use of diazinon on containment areas and equipment to control exotic fruit flies. A quarantine exemption request has been submitted to the Agency and this program is expected to end on June 15, 2011. *Contact*: Stacey Groce.
Quarantine: EPA authorized the use of ethylene oxide to sterilize the interior surfaces of enclosed animal isolator units; March 11, 2010, to March 11, 2013. *Contact*: Princess Campbell.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 10, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–20445 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9190–5]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods: Designation of Two New Equivalent Methods

AGENCY: Environmental Protection Agency.

ACTION: Notice of the designation of two new equivalent methods for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, two new equivalent methods for measuring concentrations of PM_{10} and sulfur dioxide (SO_2) in the ambient air.

FOR FURTHER INFORMATION CONTACT: Surender Kaushik, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. *Phone:* (919) 541–5691, *e-mail: Kaushik.Surender@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR Part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs) as set forth in 40 CFR Part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining compliance with the NAAQSs.

The EPA hereby announces the designation of two new equivalent methods for measuring concentrations of PM_{10} and SO_2 in the ambient air. These designations are made under the provisions of 40 CFR Part 53, as amended on November 12, 2008 (73 FR 67057–67059).

The new PM_{10} equivalent method is an automated monitoring method utilizing a measurement principle based on sample collection by filtration and analysis by beta-ray attenuation. The newly designated equivalent method is identified as follows:

EQPM–0810–193, "OPSIS Model SM200 Monitor," beta gauge semi-continuous ambient particulate monitor operated for 24 hours at a flow rate of 16.67 LPM between 5° and 40 °C using 47 mm PTFE membrane filter media, in the mass measurement range of 0 to 60 mg, configured with a BGI Model SSI25 PM_{10} inlet meeting criteria specified in 40 CFR 50 Appendix L, with a roof mounting kit, and with or without an inlet tube heater (as recommended based on site RH conditions), according to the SM200 User's Guide.

The new SO_2 equivalent method is an automated method (analyzer) that utilizes a measurement principle based on ultraviolet fluorescence. The newly designated equivalent method is identified as follows:

EQSA–0810–194, "SERES model SF 2000 G Sulfur Dioxide Analyzer," UV fluorescence method using a wavelength source approaching 215 nm and a selective membrane for aromatic hydrocarbon removal, operated with a full scale

measurement range of 0–0.5 ppm at any ambient temperature in the range of 20 °C to 30 °C, with tabletop or rack mounts, microprocessor controlled menu-driven user interface, onboard diagnostics and system test functions, analog output signals of 4–20 mA or user selectable voltage ranges up to 10 V, printer port, modem port and 32 pin data/control/alarm port, user selectable manual and automatic zero/span and calibrate modes; with or without a permeation tube system (optional equipment) for internal calibration; operated in accordance with the SF 2000 G User and Maintenance Manual.

The applications for equivalent method determinations for these candidate methods were received by the EPA on June 22, 2007 and June 23, 2010, respectively. The OPSIS monitor is commercially available from the applicant, OPSIS Inc., 150 N. Michigan Ave., Suite 1950, Chicago, IL 60601. The SERES analyzer is available from the applicant, SERES, 360 Rue Louis de Broglie, La Duranne—BP 20087, 13793 Aix en Provence, Cedex 3, France.

Test analyzers representative of these methods have been tested in accordance with the applicable test procedures specified in 40 CFR Part 53 (as amended on November 12, 2008). After reviewing the results of those tests and other information submitted by the applicants in the applications, EPA has determined, in accordance with Part 53, that these methods should be designated as equivalent methods. The information submitted by the applicants will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As designated equivalent methods, these methods are acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes, these methods must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (*e.g.,* configuration or operational settings) specified in the applicable designated method description (see the identification of the methods above).

Use of these methods also should be in general accordance with the guidance and recommendations of applicable sections of the "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I," EPA/600/R–94/038a and "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program" EPA–454/B–08–003, December, 2008. Vendor modifications of designated equivalent methods used for purposes of Part 58 are permitted only with prior approval of the EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR Part 58.

In general, a method designation applies to any sampler or analyzer which is identical to the sampler or analyzer described in the application for designation. In some cases, similar samplers or analyzers manufactured prior to the designation may be upgraded or converted (*e.g.,* by minor modification or by substitution of the approved operation or instruction manual) so as to be identical to the designated method and thus achieve designated status. The manufacturer should be consulted to determine the feasibility of such upgrading or conversion.

Part 53 requires that sellers of designated reference or equivalent method analyzers or samplers comply with certain conditions. These conditions are specified in 40 CFR 53.9.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these new equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR Part 58. Questions concerning the commercial availability or technical aspects of the methods should be directed to the applicants.

Jewel F. Morris,

Acting Director, National Exposure Research Laboratory.

[FR Doc. 2010–20476 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0576; FRL–8840–8]

Issuance of an Experimental Use Permit by the State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State of Florida has granted an experimental use permit (EUP) to the following pesticide applicant, SpringStar, Inc. EPA Company Number 66433, P.O. Box 2622, Woodinville, WA 98072. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit. EPA is publishing this document, pursuant to 40 CFR 172.26(a)(3). Notice of receipt of this permit does not imply a decision by the Agency on the permit.

FOR FURTHER INFORMATION CONTACT: Kevin Sweeney, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5063; e-mail address: *sweeney.kevin@epa.gov*.

Florida state contact: Dennis F. Howard, Chief, Bureau of Pesticides; telephone number: (850) 487–0532; e-mail address: *howardd@doacs.state.fl.us*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the people listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0576. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. State of Florida EUP

The State of Florida has issued the following EUP:

EUP number FL10–EUP–01. Issuance. Florida Department of Agriculture and

Consumer Services, Bureau of Pesticides, 3125 Conner Blvd., Bldg. 6 (MS L6), Tallahassee, FL 32399–1650. This EUP allows the use of 80 milligrams (mg) of the insecticide 2-methyl [1,1′-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2 on 1 acre of residential areas to determine if the addition of mosquito ovitrap strips (Trap-N-Kill™), impregnated with bifenthrin to existing mosquito management practices, will significantly reduce the abundance of the dengue mosquito vector, *Aedes aegypti*, in Key West, Florida. The program is authorized only in the State of Florida. The EUP is effective until December 31, 2010.

Authority: 7 U.S.C. 136c.

List of Subjects

Environmental protection, Experimental use permits.

Dated: August 5, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–20320 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0588; FRL–8838–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 4–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review the Chlorpyrifos Physiologically Based Pharmacokinetic/Pharmacodynamic (PBPK/PD) Model linked to the Cumulative and Aggregate Risk Evaluation System (CARES).

DATES: The meeting will be held on October 5–8, 2010, from approximately 9 a.m. to 5:30 p.m.

Comments. The Agency encourages that written comments be submitted by September 27, 2010, and requests for oral comments be submitted by September 30, 2010. However, written comments and requests to make oral comments may be submitted until the date of the meeting, but anyone submitting written comments after September 27, 2010, should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT.** For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

Nominations. Nominations of candidates to serve as *ad hoc* members of FIFRA SAP for this meeting should be provided on or before August 30, 2010.

Webcast. This meeting may be webcast. Please refer to the FIFRA SAP's website, *http://www.epa.gov/scipoly/SAP* for information on how to access the webcast. Please note that the webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in webcasting outages, the meeting will continue as planned.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

Comments. Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0588, by one of the following methods:

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

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

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

Instructions. Direct your comments to docket ID number EPA–HQ–OPP–2010–0588. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

Nominations, requests to present oral comments, and requests for special accommodations. Submit nominations to serve as *ad hoc* members of FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Sharlene Matten, DFO, Office of Science Coordination and Policy (7201M),

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–0130; fax number: (202) 564–8382; e-mail address: *matten.sharlene@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

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

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2010–0588 in the subject line on the first page of your request.

1. *Written comments*. The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than September 27, 2010, to provide FIFRA SAP the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting, but anyone submitting written comments after September 27, 2010, should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.** Anyone submitting written comments at the meeting should bring 30 copies for distribution to FIFRA SAP.

2. *Oral comments*. The Agency encourages that each individual or group wishing to make brief oral comments to FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than September 30, 2010, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Chair of FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 25 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting*. Seating at the meeting will be open and on a first-come basis.

4. *Request for nominations to serve as ad hoc members of FIFRA SAP for this meeting*. As part of a broader process for developing a pool of candidates for each meeting, FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as *ad hoc* members of FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Risk Assessment, organophosphate pesticides, cholinesterase inhibition, data derived uncertainty factors (also referred to as chemical specific adjustment factors), pharmacodynamic modeling, physiologically based pharmacokinetic modeling, biomonitoring data, statistical modeling, probabilistic techniques, and dietary exposure to pesticides.

Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before August 30, 2010. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of *ad hoc* members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10-15 *ad hoc* scientists.

FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose among other financial interests, the candidate's employment, stocks and

bonds, and where applicable, sources of research support. EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at *http://epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

II. Background

A. Purpose of FIFRA SAP

FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the SAP on an *ad hoc* basis to assist in reviews conducted by the SAP. As a peer review mechanism, FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

Chlorpyrifos (0,0-diethyl-0-3,5,6-trichloro-2-pyridyl phosphorothioate) is a broad-spectrum, chlorinated organophosphate (OP) insecticide. In 2000, nearly all residential uses were voluntarily canceled by Dow AgroSciences, but agricultural uses remain. The 2000 human health risk assessment was largely based on adult laboratory animal data (rat or dog) for cholinesterase inhibition and the application of default uncertainty factors to address inter- and intra-species differences including susceptible populations. Currently, the Agency is developing a new human health risk assessment expected to be released in 2010. In 2008, the FIFRA SAP reviewed a draft science issue paper on the human health effects of chlorpyrifos. Since that time, Dow AgroSciences has undergone a research effort to improve the existing physiologically based pharmacokinetic/pharmacodynamic model (PBPK/PD) developed by Dr. Charles Timchalk and co-workers at Pacific Northwest National Laboratory. Dow AgroSciences has also developed a proposed approach for linking this PBPK/PD model to the Cumulative and Aggregate Risk Evaluation System (CARES), see *http://www.ilsi.org/ResearchFoundation/Pages/ CARES.aspx,* a publically available probabilistic exposure model. The purpose of the October 2010 SAP meeting will be to review the PBPK/PD model and to evaluate the proposed approach for linking this model to CARES.

The linking of the chlorpyrifos PBPK/PD model to CARES may provide opportunities to integrate distributions of exposure to chlorpyrifos and its metabolites with cholinesterase inhibition levels across the U.S. population. In addition, this approach may allow estimation of data-derived uncertainty factors that consider use of toxicokinetic and toxicodynamic data to inform quantitative extrapolations for interspecies differences and human variability in dose response assessment. The topics to be covered in the October 2010 SAP are consistent with EPA's Office of Pesticide Programs continuing efforts to improve the scientific basis for risk assessment by broadening the application of probabilistic exposure techniques and PBPK models. The Agency has a conceptually similar effort on-going to link PBPK models for pyrethroids to the Stochastic Human Exposure and Dose Simulation model for multimedia and multipathway chemicals (SHEDS-Multimedia), a probabilistic exposure model developed by EPA's Office of Research and Development, that was reviewed by the SAP in July 2010. The current effort by Dow AgroSciences is a research effort which may, if sufficiently robust, inform future risk assessments. The October meeting is a key milestone in this effort. The Agency will solicit feedback from the Panel on technical issues related to the PBPK/PD model, the proposed approach for linking the PBPK/PD model with CARES, and the use of such linked models in risk assessment.

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to FIFRA SAP, FIFRA SAP composition (i.e., members and *ad hoc* members for this meeting), and the meeting agenda will be available no later than September 20, 2010. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap*.

FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 9, 2010.

Frank Sanders,

Director, Office of Science Coordination and Policy.

[FR Doc. 2010–20173 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0628; FRL–8839–8]

Pesticide Experimental Use Permit; Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an application 524–EUP–RNR from Monsanto Company requesting an experimental use permit (EUP) for the plant-incorporated protectants (PIPs), *Bacillus thuringiensis* (*Bt*) Vip3Aa19

protein and the genetic material necessary for its production (vector pCOT1) in event COT102 cotton, *Bt* Cry1Ac protein and the genetic material necessary for its production (vector PV–GHBK04) in event MON 15985 cotton, and *Bt* Cry2Ab2 protein and the genetic material necessary for its production (vector PV–GHBK11) in event MON 15985 cotton. The Agency has determined that the permit may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before September 17, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0628, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0628. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: *greenway.denise@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are interested in agricultural biotechnology or may be required to conduct testing of pesticidal substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse

human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under Section 5 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water.

Pursuant to 40 CFR 172.11(a), the Agency has determined that the following EUP application may be of regional and national significance, and therefore is seeking public comment on the EUP application:

Submitter: Monsanto Company, (524–EUP–RNR).

Pesticide Chemical: *Bacillus thuringiensis* (*Bt*) Vip3Aa19 protein and the genetic material necessary for its production (vector pCOT1) in event COT102 cotton, *Bt* Cry1Ac protein and the genetic material necessary for its production (vector PV–GHBK04) in event MON 15985 cotton, and *Bt* Cry2Ab2 protein and the genetic material necessary for its production (vector PV–GHBK11) in event MON 15985 cotton.

Summary of Request: The non-food 524–EUP–RNR application is for 1897 acres of PIP test materials, 909 acres of non-PIP materials, and 10857 acres of border plantings for a total of 13,663 acres. Proposed shipment/use dates are December 1, 2010 to June 30, 2012.

Eight trial protocols will be conducted:

- Breeding and observation nursery.
- Seed increase.
- Yield and herbicide tolerance trials.
- Insect efficacy trials.
- Product characterization and performance trials.
- Insect resistance management trials.
- Benefit trials.
- Seed treatment trials.

States and Commonwealth involved are: Alabama, Arkansas, Arizona, California, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maryland, Missouri, Mississippi, New Mexico, North Carolina, Oklahoma Puerto Rico, South Carolina, Tennessee, Texas and Virginia.

A copy of the application and any information submitted is available for public review in the docket established for this EUP application as described under **ADDRESSES**.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

List of Subjects

Environmental protection, Experimental use permits.

Dated: August 9, 2010.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2010–20174 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0008; FRL–8838–4]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register new uses for pesticide products containing currently registered active ingredients, pursuant to the provisions of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. EPA is publishing this Notice of such applications, pursuant to section 3(c)(4) of FIFRA.

DATES: Comments must be received on or before September 17, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number specified within Unit II., by one of the following methods:

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

Instructions: Direct your comments to the docket ID number specified for the pesticide of interest as shown in the registration application summaries. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: A contact person is listed at the end of each registration application summary and may be contacted by telephone or

e-mail. The mailing address for each contact person listed is: Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number). If you are commenting in a docket that addresses multiple products, please indicate to which registration number(s) your comment applies.

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA received applications as follows to register pesticide products containing currently registered active ingredients pursuant to the provisions of section 3(c) of FIFRA, and is publishing this Notice of such applications pursuant to section 3(c) (4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the application.

1. *Registration number/File symbol*: 100–727, 100–949, 100–1241. *Docket number*: EPA–HQ–OPP–2010–0524. *Company name and address*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Trinexapac ethyl. *Proposed uses*: Wheat, triticale, barley, oats, and sugarcane. *Contact*: Bethany Benbow, (703) 347–8072, *benbow.bethany@epa.gov.*

2. *Registration number/File symbol*: 100–727, 100–949, 100–1241. *Docket number*: EPA–HQ–OPP–2010–0526. *Company name and address*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Trinexapac ethyl. *Proposed use*: Grass grown for seed. *Contact:* Bethany Benbow, (703) 347–8072, *benbow.bethany@epa.gov*.

3. *Registration number/File symbol*: 100–1170. *Docket number*: EPA–HQ–OPP–2010–0592. *Company name and address*: Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Thiamethoxam. *Proposed use*: Poultry houses. *Contact*: Kable Bo Davis, (703) 306–0415, *davis.kable@epa.gov.*

4. *Registration number/File symbol*: 100–1306. *Docket number*: EPA–HQ–OPP–2010–0602. *Company name and address*: Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Thiamethoxam. *Proposed uses*: Food/feed handling areas of food/feed handling establishments. *Contact*: Kable Bo Davis, (703) 306–0415, *davis.kable@epa.gov*.

5. *Registration number/File symbol*: 100–RGTR. *Docket number*: EPA–HQ–OPP–2010–0527. *Company name and address*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Cyproconazole. *Proposed uses*: Golf course and sod farm turf. *Contact*: Shaunta Hill, (703) 347–8961, *hill.shaunta@epa.gov*.

6. *Registration number/File symbol*: 264–1034. *Docket number*: EPA–HQ–OPP–2008–0771. *Company name and address*: Bayer Crop Science, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Clothianidin. *Proposed use*: Mustard seed. *Contact*: Kable Bo Davis, (703) 306–0415, *davis.kable@epa.gov*.

7. *Registration number/File symbol*: 352–IGO. *Docket number*: EPA–HQ–OPP–2010–0457. *Company name and address*: E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898. *Active ingredient*: Picoxystrobin. *Proposed uses*: For the manufacture of fungicides for use on canola, cereals except rice, corn, legume vegetables (dry), sorghum, and soybeans. *Contact*: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

8. *Registration number/File symbol*: 352–IUN. *Docket number*: EPA–HQ–OPP–2010–0457. *Company name and address*: E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898. *Active ingredient*: Picoxystrobin. *Proposed uses*: As a fungicide to control foliar and soil-borne plant diseases on canola, cereal grains except rice, corn, legume vegetables (dry), sorghum, and soybeans. *Contact*: Susan Stanton, (703) 305–5218, *stanton.susan@epa.gov*.

9. *Registration number/File symbol*: 400–467, 400–487, 400–461. *Docket number*: EPA–HQ–OPP–2010–0603. *Company name and address*: Chemtura Corporation, 199 Benson Rd, Middlebury, CT 06798. *Active ingredient*: Diflubenzuron. *Proposed use*: Citrus fruits (crop group 10). *Contact*: Kable Bo Davis, (703) 306–0415, *davis.kable@epa.gov*.

10. *Registration number/File symbol*: 524–582. *Docket number*: EPA–HQ–OPP–2010–0496. *Company name and*

address: Monsanto Company, 1300 I (Eye) Street, NW., Suite 450 East, Washington, DC 20005. *Active ingredient*: Diglycolamine salt of dicamba. *Proposed use*: Dicamba-tolerant soybean. *Contact*: Michael Walsh, (703) 308–2972, *walsh.michael@epa.gov*.

11. *Registration number/File symbol*: 7173–EON. *Docket number*: EPA–HQ–OPP–2010–0584. *Company name and address*: Liphatech, Inc., 3600 West Elm St., Milwaukee, WI 53209. *Active ingredient*: Chlorophacinone. *Proposed use*: California ground squirrel. *Contact*: Daniel Peacock, (703) 305–5407, *peacock.dan@epa.gov*.

12. *Registration number/File symbol*: 62719–603. *Docket number*: EPA–HQ–OPP–2010–0501. *Company name and address*: Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient*: Penoxsulam. *Proposed uses*: Non-bearing trees, including avocado, cacao, citrus, coffee, guava, mango, olive, pomegranate, pome fruit, and stone fruit; conifers, eucalyptus; and non-cropland, including non-food producing, non-cultivated agricultural or non-agricultural areas such as highway, utility rights-of-way, industrial sites, tank farms, storage areas, airports, fencerows, and farmsteads. *Contact*: Phil Errico, (703) 305–6663, *errico.philip@epa.gov*.

13. *Registration number/File symbol*: 86203–11. *Docket number*: EPA–HQ–OPP–2010–0589. *Company name and address*: Mitsui Chemicals Agro, Inc., c/o Landis International, Inc., P.O. Box 5126, Valdosta, GA 30603–5126. *Active ingredient*: Dinotefuran. *Proposed use*: Forestry. *Contact*: Rita Kumar; (703) 308–8291, *kumar.rita@epa.gov*.

14. *Registration number/File symbol*: 10163–247, 10163–301. *Docket number*: EPA–HQ–OPP–2010–0343. *Company name and address*: The Gowan Company, P.O. Box 5569, Yuma, AZ 85366. *Active ingredient*: Flutolanil. *Proposed use*: Brassica leafy vegetables, ginseng, and turnip greens. *Contact*: Lisa Jones, (703) 308–9424, *jones.lisa@epa.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 6, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–20321 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0917; FRL–8837–7]

Notice of Receipt of a Pesticide Petition Filed for Residues of Complex Polymeric Polyhydroxy Acids in or on All Food Commodities; Correction and Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction and reopening of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of January 13, 2010, concerning the Agency's receipt of an initial filing of a pesticide petition. This document is being issued to correct omissions and to also reopen the comment period for an additional 30 days.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0917, must be received on or before September 17, 2010.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of January 13, 2010.

FOR FURTHER INFORMATION CONTACT: Menyon Adams, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8496; e-mail address: *adams.menyon@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the **Federal Register** notice of January 13, 2010, a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0917. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

C. Why is the Comment Period Being Reopened?

This document reopens the public comment period for the notice of filing of pesticide petition (PP) 9F7645, from Floratine Biosciences. The notice of filing was published in the **Federal Register** of January 13, 2010 (75 FR 1773) (FRL–8805–6). EPA is hereby reopening the comment period for 30 additional days because of the correction of several omissions in text of the original printing. The original comment period ended on February 12, 2010; the new comment period ends on September 17, 2010.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the January 13, 2010 **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Does this Correction Do?

The FR Doc. 2010–490 published in the **Federal Register** of January 13, 2010 (75 FR 1773) (FRL–8805–6) is corrected as follows:

The phrase "polymeric polyhydroxy acid" is corrected to read "complex polymeric polyhydroxy acids in the following places:

1. On page 1773, third column, in the heading of the document, third line.

2. On page 1773, third column, in the **SUMMARY**, line six.

3. On page 1775, first column, third full paragraph, lines six and seven.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 5, 2010

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2010–20450 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0649; FRL–8840–2]

Notice of Receipt of Request to Voluntarily Cancel a Pesticide Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by the registrant to voluntarily cancel a pesticide registration.

DATES: Comments must be received on or before September 17, 2010.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2010–0649, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0649. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Leonard Cole, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5412; e-mail address: *cole.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree, suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of an application from the registrant to cancel a technical grade active ingredient pesticide product registered under section 3 or 24(c) of FIFRA. This registration is listed by registration number, product and chemical name in Table 1 of this unit.

TABLE 1.—REGISTRATION WITH PENDING REQUEST FOR CANCELLATION

Registration No.	Product Name	Chemical Name
70127–4	Beetleball Technical	4-Allyl Anisole (Estragole)

Unless this request is withdrawn by the registrant within 30 days of publication of this notice, orders will be issued canceling this registration. Users of this pesticide or anyone else desiring the retention of this registration should contact the registrant directly during this 30–day period.

Table 2 of this unit includes the name and address of record for the registrant listed in Table 1 of this unit by the EPA company number.

TABLE 2.—REGISTRANT REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
70127	Novozymes Biologicals, Inc. 5400 Corporate Circle Salem, Virginia 24153

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of request in the **Federal Register**. Thereafter, the Administrator may approve the request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before September 17, 2010. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product has been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products currently in the United States and were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA's existing stocks policy (56 FR 29362) provides that: "If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and data call ins, and the registration is not subject to the Registration Standard, Label Improvement Program, or reregistration decision. The Agency will generally permit a registrant to sell or distribute existing stocks for 1 year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted."

Upon cancellation of the pesticide identified in Table 1 of Unit II., EPA anticipates allowing sale, distribution, and use as described in this unit. Exception to this general policy will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 5, 2010.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2010–20448 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2002–0262; FRL–8841–5]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been canceled only if the sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before September 17, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2002–0262, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Attention: Melanie Biscoe.

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2002–0262. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://*

www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Melanie Biscoe, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7106; e-mail address: *biscoe.melanie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental; human health; agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of requests from all endosulfan registrants to cancel all 30 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in Table 1 of this unit.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
11678–5	Thionex Endosulfan Technical	Endosulfan
19713–99	Drexel Endosulfan 2EC Insecticide	Endosulfan
19713–319	Drexel Endosulfan Technical	Endosulfan
19713–399	Drexel Endosulfan 3EC	Endosulfan
61483–65	Endalfly Insecticide Cattle Ear Tag	Endosulfan
66222–62	Thionex 50W Insecticide	Endosulfan
66222–63	Thiodan 3EC Insecticide	Endosulfan
66222–64	Thionex Technical Insecticide	Endosulfan

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
AZ030004	Thiodan 3EC Insecticide	Endosulfan
AZ980004	Drexel Endosulfan 3EC	Endosulfan
HI030001	Thionex 50W Insecticide	Endosulfan
HI030002	Thiodan 3EC Insecticide	Endosulfan
HI070006	Thionex 3EC	Endosulfan
ID030002	Thionex 3EC	Endosulfan
ID030004	Thionex 3EC	Endosulfan
ID980003	Drexel Endosulfan 3EC	Endosulfan
NC080001	Thionex 3EC	Endosulfan
NV030001	Thiodan 3EC Insecticide	Endosulfan
OR030007	Thiodan 3EC Insecticide	Endosulfan
OR030010	Thiodan 3EC Insecticide	Endosulfan
OR030012	Thionex 50W Insecticide	Endosulfan
OR030013	Thiodan 3EC Insecticide	Endosulfan
OR030024	Thiodan 3EC Insecticide	Endosulfan
UT030003	Thionex 3EC	Endosulfan
WA030013	Thiodan 3EC Insecticide	Endosulfan
WA030017	Thionex 50W Insecticide	Endosulfan
WA030018	Thiodan 3EC Insecticide	Endosulfan
WA030024	Thionex 3EC Insecticide	Endosulfan
WA030027	Thiodan 3EC Insecticide	Endosulfan
WA980012	Drexel Endosulfan 3EC	Endosulfan

The registrants listed in Table 2 of this unit have requested:

- Cancellation of the uses listed in List 1 of Unit V. effective immediately.
- Cancellation of the uses listed in List 2 of Unit V. effective as of March 31, 2012.
- Cancellation of the uses listed in List 3 of Unit V. effective as of March 31, 2013.
- Cancellation of the uses listed in List 4 of Unit V. effective as of September 1, 2014.
- Cancellation of the uses listed in List 5 of Unit V. effective as of March 31, 2015.
- Cancellation of the uses listed in List 6 of Unit V. effective as of March 31, 2016.

These cancellation requests are part of a Memorandum of Agreement between the Agency and the four endosulfan registrants dated July 22, 2010. Specific endosulfan uses will end according to the schedule described in Unit V. The Memorandum of Agreement also requires additional mitigation measures for uses listed in Lists 2, 3, 4, 5, or 6 of Unit V. The Memorandum of Agreement is available at *http://www.regulations.gov* under docket number EPA–HQ–OPP–2002–0262–0181. Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue orders in the **Federal Register** canceling all of the affected registrations.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
11678	Makhteshim Chemical Works, Ltd. 4515 Falls of Neuse Rd. Suite 300 Raleigh, NC 27609
19713	Drexel Chemical Company 1700 Channel Ave. P.O. Box 13327 Memphis, TN 38113–0327
61483	KMG-Bernuth, Inc. 9555 W. Sam Houston Pkwy., South Suite 600 Houston, TX 77099

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
66222	Makhteshim-Agan of North America, Inc. 4515 Falls of Neuse Rd. Suite 300 Raleigh, NC 27609

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 2 of Unit II. have requested that EPA waive the 180–day comment period. Accordingly, EPA will provide a 30–day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. In any order issued in response to these requests for use deletions and requests for voluntary cancellations, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1 of Unit II. These provisions are consistent with the requests for use deletions and requests for voluntary cancellations outlined in Unit II. If the request for voluntary cancellation and use termination is granted, the Agency intends to publish the cancellation order in the **Federal Register**.

1. *For the uses in List 1 of this unit*:

i. EPA intends to prohibit the registrants' distribution, sale, and reformulation of products permitting the uses in List 1 after December 31, 2010, except sale or distribution of such products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

ii. EPA intends to prohibit the distribution or sale of products permitting the uses in List 1 by persons other than the registrants after May 31, 2011, except sale or distribution of such products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

iii. EPA intends to prohibit the uses in List 1 after July 31, 2012. The stop use date for the uses listed in List 1 of this unit will also be reflected on amended product labeling.

iv. Any use of existing stocks must be consistent with the directions and terms of the previously approved labeling on, or that accompanied, the product with respect to those uses.

List 1.—Phase-Out Group A

Almond
Apricot
Broccoli
Brussels sprouts
Carrots
Cauliflower
Celery (non-AZ)
Citrus (non-bearing)
Collard greens
Dry beans
Dry peas
Eggplant
Filbert
Kale
Kohlrabi
Mustard greens
Nectarine (CA only)
Macadamia
Plum & prune
Poplars grown for pulp and timber
Strawberry (annual)
Sweet potato
Tart cherry
Turnip
Walnut
Ornamental trees, shrubs, and herbaceous plants – includes boxelder, dogwood, lilac, douglas fir (grown for ornamentals nursery stock or Christmas trees; Pacific Northwest only), elms, leatherleaf fern, pines (austrian, jack, red, scotch, white), shade trees (except birch), shrubs, spruce (New England area only), taxus, orchids, hybrid poplars, Christmas trees

Other uses that may appear on section 3 registration labels or on a 24(c) registration and are not listed above or on Lists 2, 3, 4, 5, or 6 of this unit.

2. *For the uses in List 2 of this unit*:

i. EPA intends to prohibit the registrants' distribution, sale, and reformulation of products permitting the uses in List 2 after March 31, 2012, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

ii. EPA intends to prohibit the distribution or sale of products permitting the uses in List 2 by persons other than the registrants after May 31, 2012, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

iii. EPA intends to prohibit the uses in List 2 after July 31, 2012. The stop use date for the uses listed in List 2 of this unit will also be reflected on amended product labeling.

iv. Any use of existing stocks must be consistent with the directions and terms of the previously approved labeling on, or that accompanied, the product with respect to those uses.

List 2.—Phase-Out Group B

Cabbage
Celery (AZ only)
Cotton
Cucumbers
Lettuce
Stone fruits not listed in List 1 of this unit, including nectarine (non-CA), peaches, and sweet cherry
Summer melons (cantaloupe, honeydew, watermelon)
Summer squash
Tobacco

3. *For the use in List 3 of this unit*:

i. EPA intends to prohibit the registrants' distribution, sale, and reformulation of products permitting the use in List 3 after March 31, 2013, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

ii. EPA intends to prohibit the distribution or sale of products permitting the use in List 3 by persons other than the registrants after May 31, 2013, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

iii. EPA intends to prohibit the use in List 3 after July 31, 2013. The stop use date for the use listed in List 3 of this unit will also be reflected on amended product labeling.

iv. Any use of existing stocks must be consistent with the directions and terms of the previously approved labeling on, or that accompanied, the product with respect to those uses.

List 3.—Phase-Out Group C

Pear

4. *For the uses in List 4 of this unit*:

i. EPA intends to prohibit the registrants' distribution, sale, and reformulation of products permitting the uses in List 4 in the state of Florida after September 30, 2014, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

ii. EPA intends to prohibit the distribution or sale in the state of Florida of products permitting the uses in List 4 by persons other than the registrants after October 31, 2014, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

iii. EPA intends to prohibit the uses in List 4 in the state of Florida after December 31, 2014. The stop use date for the uses listed in List 4 of this unit will also be reflected on amended product labeling.

iv. Any use of existing stocks must be consistent with the directions for use and terms of the previously approved labeling on, or that accompanied, the product with respect to those uses.

List 4.—Phase-Out Group D

All Florida uses of:

Apple
Blueberry
Peppers
Potatoes
Pumpkins
Sweet corn
Tomato
Winter squash

5. *For the uses in List 5 of this unit*:

i. EPA intends to prohibit the registrants' distribution, sale, and reformulation of products permitting the uses in List 5 after March 31, 2015, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

ii. EPA intends to prohibit the distribution or sale of products permitting the uses in List 5 by persons other than the registrants after May 31, 2015, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

iii. EPA intends to prohibit the uses in List 5 after July 31, 2015. The stop use date for the uses listed in List 5 of this unit will also be reflected on amended product labeling.

iv. Any use of existing stocks must be consistent with the directions for use and terms of the previously approved labeling on, or that accompanied, the product with respect to those uses.

List 5.—Phase-Out Group E

Apple
Blueberry
Peppers
Potatoes
Pumpkins
Sweet corn
Tomato
Winter squash

6. *For the uses in List 6 of this unit*:

i. EPA intends to prohibit the registrants' distribution, sale, and reformulation of products permitting the uses in List 6 after March 31, 2016, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

ii. EPA intends to prohibit the distribution or sale of products permitting the uses in List 6 by persons other than the registrants after May 31, 2016, except sale or distribution of the products for the purposes of proper disposal, or export consistent with section 17 of FIFRA.

iii. EPA intends to prohibit the uses or products in List 6 after July 31, 2016. The stop use date for the uses listed in List 6 of this unit will also be reflected on amended product labeling.

iv. Any use of existing stocks must be consistent with the directions for use and terms of the previously approved labeling on, or that accompanied, the product with respect to those uses.

List 6.—Phase-Out Group F

Livestock ear tags
Pineapple
Strawberry (perennial/biennial)
Vegetable crops for seed (alfalfa, broccoli, brussels sprouts, cabbage, cauliflower, Chinese cabbage, collard greens, kale, kohlrabi, mustard greens, radish, rutabaga, turnip)

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 12, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–20447 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1195; FRL–8840–3]

Propetamphos; Notice of Receipt of Requests to Voluntarily Cancel Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by the registrant, Wellmark International, to voluntarily cancel its registrations of products containing the pesticide propetamphos. The requests would terminate the last propetamphos products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrant withdraws its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been canceled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before September 17, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–1195, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–1195. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Monica Wait, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8019; fax number: (703) 308–7070; e-mail address: *wait.monica@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests to Cancel

This notice announces receipt by EPA of requests from registrant Wellmark International to cancel propetamphos product registrations. Propetamphos is an organophosphate insecticide registered for use for non-residential indoor crack and crevice treatment to control crawling insects, primarily, ants, cockroaches, and fleas. The registration review process for propetamphos was initiated in June 2008, with the issuance and placement of the Summary Document and Preliminary Work Plan for Registration Review in the docket EPA–HQ–OPP–2007–1195 for a 90–day public comment period. The Propetamphos Final Work Plan for Registration Review was placed in the docket on November 25, 2008, and the registration review Data Call-In for propetamphos was issued in December 2009. Wellmark International is the only current registrant of propetamphos products.

Wellmark International's 90–day response to the registration review Data Call-In stated their intent to seek voluntary cancellation of the propetamphos technical product (EPA Registration No. 2724–313) and the one remaining propetamphos end-use product, Zoecon 9001 EW (EPA Registration No. 2724–450). Subsequently, in a letter to the Agency dated July 23, 2010, Wellmark International requested that EPA cancel the propetamphos pesticide product registrations identified in Table 1 of Unit III. Wellmark International requested that propetamphos technical be canceled effective September 30, 2010, and the end-use product be canceled effective 18 months later on March 30, 2012. Furthermore, Wellmark International requested an 18–month existing stocks provision for use of EPA Reg. No. 2724–313 to formulate EPA Reg. No. 2724–450. For EPA Reg. No. 2724–450, Wellmark requested an existing stocks provision that would allow them to sell or distribute existing stocks of EPA Reg. No. 2724–450 until depletion and allow persons other than Wellmark International to sell, distribute, and use existing stocks of EPA Reg. No. 2724–450 until depletion. These are the last two propetamphos products registered for use in the United States.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from Wellmark International to cancel propetamphos product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling

the affected registrations subject to the terms and conditions set forth below in Unit VI.

TABLE 1.—PROPETAMPHOS PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration Number	Product Name	Company
002724–00313	Technical Propetamphos	Wellmark International
002724–00450	Zoecon 9001 EW	Wellmark International

Table 2 of this unit includes the name and address of record for the registrant of the products listed in Table of this unit. The company number corresponds to the first part of the EPA registration numbers of the products listed in Table 1.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA Company Number	Company Name and Address
002724	Wellmark International Attn: James McFadden 1501 E. Woodfield Rd., Suite 200 West Schaumberg, IL 60173

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The propetamphos registrant has requested that EPA waive the 180–day comment period. Accordingly, EPA will provide a 30–day comment period on the requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary cancellation are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit III.

EPA proposes to make the cancellation of propetamphos technical (EPA Reg. No. 2724–313) effective September 30, 2010, after which date the technical product can no longer be sold or distributed. Wellmark International would be permitted to use the existing stocks of propetamphos technical (defined as quantities of EPA Reg. No. 2724–313 in existence as of September 30, 2010) to formulate the propetamphos end-use product (EPA Reg. No. 2724–450) for 18 months after the September 30, 2010 effective date of the cancellation, which would be until March 30, 2012. Thereafter, Wellmark International also would be prohibited from using (as well as continue to be prohibited from selling or distributing) propetamphos technical, except for export consistent with FIFRA section 17 or for proper disposal.

EPA proposes to make the cancellation of the propetamphos end-use product (EPA Reg. No. 2724–450) effective March 30, 2012. Wellmark International would be allowed to sell or distribute existing stocks of EPA Reg. No. 2724–450 (defined as quantities of EPA Reg. No. 2724–450 in existence as of March 30, 2012) until such stocks are depleted. Persons other than Wellmark International would be allowed to sell, distribute, and use existing stocks of EPA Reg. No 2724–450 until supplies are exhausted, provided that such sale, distribution, and use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product.

The existing stocks provisions outlined in this notice are intended to allow depletion of the amount of technical propetamphos (EPA Reg. No. 2724–313) that Wellmark International currently has on-hand from purchases made prior to its decision to request voluntary cancellation. Use until depletion will preclude environmental disposal concerns of quantities of undiluted propetamphos that cannot be formulated or used.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 5, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–20010 Filed 8–17–10; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0650; FRL–8840–5]

Propionic Acid and Salts, and Urea Sulfate; Registration Review Proposed Decisions; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed registration review decisions for the pesticides propionic acid and salts, and urea sulfate and opens a public comment period on the proposed decisions. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before October 18, 2010.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of

interest provided in the table in Unit II.A., by one of the following methods:

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

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

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

Instructions: Direct your comments to the docket identification (ID) number listed in the table in Unit II.A. for the pesticide you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: *For pesticide-specific information, contact*: The chemical review manager identified in the table in Unit II.A. for the pesticide of interest.

For general information on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the chemical review manager that is identified in the table in Unit II.A. for the pesticide of interest.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed registration review decision for the pesticides shown in the following table, and opens a 60–day public comment period on the proposed decisions. The active ingredient propionic acid is a fungicide and bactericide that is used to control fungi and bacteria in stored hay and grains, inhibit bacterial growth in drinking water for livestock and poultry, control mold and fungi in poultry litter and animal feed, and sanitize pre-cleaned food contact surfaces. Propionic acid is also used as an inert ingredient in pesticide formulations. Propionic acid and its salts, sodium and calcium propionates, are approved by the Food and Drug Administration (FDA) in the United States as Generally Recognized As Safe (GRAS) for use in food. Propionic acid and salts, are exempt from the requirement of a tolerance. Urea sulfate is used as a desiccant on

cotton. No food crop uses remain and all tolerances for urea sulfate have been deleted.

REGISTRATION REVIEW PROPOSED DECISIONS

Registration Review Case Name and Number	Pesticide Docket ID Number	Chemical Review Manager,Telephone Number, E-mail Address
Propionic Acid and Salts Case Number 4078	EPA–HQ–OPP–2008–0024	Wilhelmena Livingston (703) 308–8025 *livingston.wilhelmena@epa.gov*
Urea Sulfate Case Number 7213	EPA–HQ–OPP–2007–0202	Andrea Carone (703) 308–0122 *carone.andrea@epa.gov*

The registration review docket for a pesticide includes earlier documents related to the registration review of the case. For example, the review opened with the posting of a Summary Document, containing a Preliminary Work Plan, for public comment. A Final Work Plan was posted to the docket following public comment on the initial documents.

For propionic acid and salts, an endangered species assessment was conducted for all uses of propionic acid; however, the Agency determined that a health risk assessment was not needed. In addition, no data were required at this time to support registrations containing propionic acid and salts. The Agency has considered propionic acid and salts in light of the standard for registration and safety factors in FIFRA and FFDCA, as amended by FQPA. EPA has found that there are not likely to be any unreasonable adverse effects to the U.S. population in general, and to infants and children in particular, or to non-target organisms or the environment from the use of registered pesticide products containing propionic acid and salts when currently required label instructions are followed. In addition, the Agency has made a "No Effect" determination for endangered species for propionic acid and salts. This proposed registration review decision is described in more detail in the *Propionic Acid and Salts Proposed Registration Review Decision,* available in the propionic acid and salts docket.

For urea sulfate, after the publication of the Urea Sulfate Final Work Plan, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, the Agency received a request to voluntarily cancel all but one registered label for use on cotton and then granted the voluntary cancellation request on October 14, 2008, for all registered use sites besides cotton of urea sulfate in the United States. The Agency described the impact of the cancellations on the registration review of urea sulfate in the Revised Registration Review Ecological Risk Assessment and Effects Determination for Urea Sulfate, which was issued on September 3, 2009. In this assessment, the Agency made a "No Effect" determination for federally listed species and designated critical habitats. This proposed registration review decision is described in more detail in the *Urea Sulfate Proposed Registration Review Decision,* available in the urea sulfate docket.

Following public comment, the Agency will issue registration review decisions for products containing propionic acid and salts, and urea sulfate.

The registration review program is being conducted under congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. Section 3(g) of FIFRA, as amended, required EPA to establish by regulation procedures for reviewing pesticide registrations, originally with a goal of reviewing each pesticide's registration every 15 years to ensure that a pesticide continues to meet the FIFRA standard for registration. The Agency's final rule to implement this program was issued in August 2006, and became effective in October 2006, and appears at 40 CFR part 155 subpart C. The Pesticide Registration Improvement Act of 2003 (PRIA) was amended and extended in September 2007. FIFRA, as amended by PRIA in 2007, requires EPA to complete registration review decisions by October 1, 2022, for all pesticides registered as of October 1, 2007.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60–day public comment period on all proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the docket for propionic acid and salts. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a "Response to Comments Memorandum" in the docket. The registration review decision will explain the effect that any comments had on the decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. A link to earlier documents related to the registration review of propionic acid and salts, and urea sulfate is provided at: *http://www.epa.gov/oppsrrd1/registration_review/reg_review_status.htm*.

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Administrative practice and procedure, Pesticides and pests, propionic acid and salts, and urea sulfate.

Dated: August 8, 2010

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–20176 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9190–9; Docket ID No. EPA–HQ–ORD–2009–0934]

The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields and a Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period to September 3, 2010.

SUMMARY: EPA is announcing an extension of the public comment period for two related draft documents: (1) "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" (EPA/600/R–09/138A) and (2) "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams" (EPA/600/R–10/023A). We are specifically extending the comment period on these two documents to give the public additional time to evaluate the data used to derive a benchmark for conductivity. The original **Federal Register** notice announcing the public comment period was published on April 12, 2010 (75 FR 18499). By following the link below, reviewers may download the initial data and EPA's derivative data sets that were used to calculate the conductivity benchmark. These reports were developed by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development as part of a set of actions taken by EPA to further clarify and strengthen environmental permitting requirements for Appalachian mountaintop removal and other surface coal mining projects, in coordination with Federal and State regulatory agencies (*http://www.epa.gov/owow/wetlands/guidance/mining.html*).

Both documents were reviewed by an independent Mountaintop Mining Advisory Panel convened by EPA's Science Advisory Board (SAB) on July 21—23, 2010. The public comment period for the SAB meeting follows a separate process and provides separate opportunities for all interested parties to comment on the document. EPA intends to forward to the SAB those comments received as of September 3, 2010, for consideration by the SAB Panel as they finalize their report. When finalizing the draft documents, EPA will consider the comments from the SAB review as well as any significant public comments that it receives in accordance with this notice.

EPA released these draft documents for the purpose of pre-dissemination peer review under applicable information quality guidelines. The documents have not been formally disseminated by EPA. They do not represent and should not be construed to represent a final Agency policy or determination; however, the documents reflect EPA's best interpretation of the available science. The draft documents are available via the Internet on NCEA's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.*

DATES: The public comment period began on April 12, 2010, and ends on September 3, 2010. Technical comments should be in writing and must be received by EPA by September 3, 2010.

ADDRESSES: The draft reports, "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" and "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams" are available primarily via the Internet on NCEA's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available; contact the EPA by telephone (703–347–8629) or facsimile (703–347–8691). If you are requesting a paper copy, please provide your name, mailing address, and the document titles (1) "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" and (2) "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams."

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of **Federal Register** Notice (75 FR 30393).

FOR FURTHER INFORMATION CONTACT: For information on submitting comments to the docket, please contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.* For technical information, please leave a message at 703–347–8629 or send e-mail to *MTM–Cond@epa.gov.*

Dated: August 12, 2010.

David A. Bussard,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2010–20466 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0632; FRL–8840–1]

Web-Distributed Labeling User Acceptance Pilot

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pesticide Programs (OPP) is exploring a new initiative called "web-distributed labeling" (web-distributed labeling) that would make the most current version of some pesticide labeling available to users via the Internet. Through this **Federal Register** Notice, OPP is announcing its intention to conduct a web-distributed labeling "User Acceptance Pilot" and is soliciting interest from entities potentially willing to participate in this pilot program. Through the User Acceptance Pilot, EPA intends to demonstrate how users could access labeling information using the Internet, thereby helping EPA determine whether the benefits of web-distributed labeling would be sufficiently appealing to users that they would be willing to visit a website to download and use labeling. This notice provides a brief description of a pilot website and invites participation in developing a pilot web-distributed labeling website by interested parties.

DATES: Comments must be received on or before September 17, 2010.

ADDRESSES: Submit your comments identified by the docket identification (ID) number by one of the following methods:

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

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

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays).

Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Michelle DeVaux, Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703-308-5891; fax number:703-308-2962; e-mail address: *devaux.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you provide pesticide labeling in an electronic format or are interested in developing a website to deliver pesticide labeling electronically. Potentially affected entities may include, but are not limited to:

- Data processing, hosting, and related services (NAICS code 518210), i.e., establishments primarily engaged in providing infrastructure for hosting or data processing services.
- Web search portals (NAICS code 518112), e.g. companies or individuals that develop or maintain web search portals.
- Internet publishing and broadcasting and Web search portals (NAICS code 519130), e.g., internet search portals, Web search portals, and internet search Web sites.
- Persons who manufacture, distribute, sell, apply, or regulate pesticide products, including agricultural, commercial, and residential products (NAICS codes 32532 and 32561).

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

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0632. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Background

A. What Action is the Agency Taking?

Through this **Federal Register** Notice, OPP intends to identify parties potentially interested in participating in a web-distributed labeling User Acceptance Pilot.

1. *Overview.* EPA regulates pesticide products under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA establishes a pre-market review and approval system called "registration." With limited exceptions, no pesticide may be sold or distributed in the United States unless EPA has first issued a registration for the product. As part of the registration process, EPA reviews and approves the labeling affixed to or accompanying the pesticide product. Labeling describes how a pesticide may be used safely and effectively. Federal law prohibits the use of a pesticide in a manner inconsistent with its approved labeling. Many pesticide products are registered for multiple uses, and as a result, the labeling of the product is often very lengthy.

Since 2007, EPA has been exploring the possibility of making some pesticide product labeling available via the Internet. EPA envisions a system that would make the most current version of pesticide labeling available to purchasers and users electronically through web-distribution. For certain segments of pesticide products, portions of the labeling would no longer physically accompany the pesticide container. To obtain the pesticide product's full labeling, the container label would require a user to go to an Internet website. Users would be able to retrieve crop-specific labeling by entering the product registration number, the state where the pesticide would be applied, and use site (e.g., a crop) on which the pesticide would be applied. In response to this information, the website would provide streamlined labeling for the user to download that would include only the information necessary for the particular use requested. When fully operational, a web-distributed labeling system would also offer alternate delivery mechanisms for users who cannot access the Internet. Web-distributed labeling is being proposed initially as a voluntary option for registrants and would not be appropriate for all pesticide products. The goal of the web-distributed labeling initiative is to provide streamlined labeling that contains only the pertinent label information specific to the state where the pesticide is to be used and for the particular intended use, thus reducing unrelated directions by a significant amount. EPA expects this will improve label comprehension, readability, and compliance.

EPA is interested in conducting a "User Acceptance Pilot" to research the extent to which users would accept a system requiring them to obtain labeling via the Internet. The specific goal of the pilot is to determine whether the benefits of web-distributed labeling would be sufficiently appealing to users that they would be willing to visit a website to obtain labeling for a pesticide product. The pilot would demonstrate how users could access labeling information using the website and would not involve the actual distribution to users of actual pesticide product labeling that would rely on the web-distributed labeling approach.

2. *Background.* After receiving a request to consider web-distributed labeling from State officials responsible for regulation of pesticide products, EPA formed an internal workgroup to discuss the possible mechanics of web-distributed labeling and how it would complement ongoing label improvement programs. The workgroup conducted extensive stakeholder outreach to individuals and associations to describe the concept of web-distributed labeling and to solicit stakeholder feedback. Using the stakeholders' input, the EPA internal workgroup developed discussion papers to describe some of the details around specific elements of web-distributed labeling.

In May 2008, EPA requested formal feedback on web-distributed labeling from the Pesticide Program Dialogue Committee (PPDC), a Federal Advisory Committee to the Office of Pesticide Programs. In response, a PPDC workgroup was formed to review and respond to the discussion papers developed by EPA. The workgroup includes representatives from user and grower groups; public interest groups; trade associations; industry; State, local, and tribal governments; educational organizations; Federal agencies; and others. From October 2008 through October 2009 the PPDC web-distributed labeling workgroup met to discuss and provide comment on the papers. A full listing of the meetings and papers

considered is available at: *http://epa.gov/pesticides/ppdc/distr-labeling/index.html.*

In October 2009, the PPDC workgroup recommended a pilot for web-distributed labeling that would allow users to test the functionality of one or several web-distributed labeling websites. The proposed pilot would be conducted with mock pesticide labeling and would not require any changes to actual pesticide labeling and any mock pesticide labeling would not be used to make an actual pesticide application. Based on the feedback received from the PPDC workgroup, EPA decided to focus the pilot on soliciting user feedback on the concept of web-distributed labeling. The pilot is discussed further in Unit II.A.3 and 4.

3. *Pilot specifications*. The EPA is looking for entities outside of EPA to participate in the User Acceptance Pilot. An entity which volunteers to participate would develop a website from which potential pesticide users and others can retrieve pesticide product labeling information appropriate to a specific state and use site. The website(s) developed for the User Acceptance Pilot will allow users to do the following:

- Log onto an Internet-accessible website.
- Enter a product registration number or other product identifier for one of several pre-determined products.
- Select the relevant state/county in which the mock pesticide application would take place.
- Select the relevant use pattern(s) for the mock pesticide application to filter the labeling according to use pattern(s).
- View and download from the website the labeling appropriate for the identified product, use pattern, and state provided.

In addition, the pilot websites would:

- Provide web-distributed labeling for at least three different products. Participants may use product labels of their choosing and/or, upon request, use mock labels provided by EPA.
- Place a prominent statement on each page of the downloaded labeling making it clear that the labeling downloaded from the website(s) was not legally valid for purposes of making a pesticide application.
- Offer users a mechanism for providing feedback on the web-distributed labeling experience.

Participants are not limited to creating a website that meets only the minimum specifications identified above, and EPA encourages participants to incorporate other tools and functionality as appropriate. Possible enhancements for a web-distributed labeling website are discussed in the Website Functionality discussion paper available at: *http://www.epa.gov/pesticides/ppdc/distr-labeling/jan09/functionality.pdf*.

4. *Pilot evaluation*. As noted above, the purpose of the pilot is to obtain information about users' reactions to a system which requires them to obtain labeling from the Internet. The results of this research are important for EPA in deciding to move ahead with further efforts to develop such a system. Consequently, EPA not only expects participants in the Pilot to offer users a mechanism for providing feedback on the web-distributed labeling experience, but also encourages participants to summarize and submit to EPA the feedback obtained through the pilot.

The following types of information would be useful to EPA in assessing the User Acceptance pilot.

i. *Paper labels* – what users like and dislike about the current paper labeling on or accompanying pesticide containers.

ii. *Web-distributed labeling pilot website* – the experience of using the website

- How users would access a web-distributed labeling website, e.g., whether high speed, dial-up, no online access;
- Ease of navigation (finding web-distributed labeling the user was looking for); and
- The user's overall experience using the website

iii. *Web-distributed labeling* – The reaction to web-distributed labeling

- Ease in understanding web-distributed labeling
- Ease in following labeling that is partially on container and partially on web-distributed labeling
- Paper-based format or in the streamlined web-distributed labeling format preference
- User's impressions of the benefits of web-distributed labeling
- Potential impact on the user's compliance with labeling

iv. *Other potential features of Web-distributed labeling*

- What other information, if any, the user would like to have that was not offered in the pilot, e.g., calibration instructions, pest identification guides.

5. *How to participate*. Parties (including but not limited to those listed under Unit I.A.) interested in participating in the User Acceptance Pilot must respond in writing by September 17, 2010 to the person identified in the section titled **FOR FURTHER INFORMATION CONTACT** with an expression of interest to participate. EPA will schedule a meeting with all interested parties after EPA has reviewed the responses to discuss the User Acceptance Pilot and to answer any questions from potential participants. EPA's goal is to have all User Acceptance Pilot websites ready for users to test by October 15, 2010.

Participation in the User Acceptance Pilot is voluntary; however, those entities who ultimately participate must agree to certain terms and conditions in order for EPA to evaluate the success of the website, including the following:

- The website(s) developed for the User Acceptance Pilot must be accessible to all potential users and at no charge to any potential user.
- EPA would post information gathered as part of the User Acceptance Pilot and provided to EPA to the public docket or made available to EPA to post to the public docket.
- Participation in the User Acceptance Pilot does not guarantee future involvement or participation in any web-distributed labeling activity, such as developing a structured labeling interface.

Parties interested in learning more about participating in the pilot can find information at *http://www.epa.gov/pesticides/regulating/labels/distribution/index.htm*. Discussion papers related to web-distributed labeling are available at *http://epa.gov/pesticides/ppdc/distr-labeling/index.html*. Participants are encouraged to review Web-Distributed Labeling of Pesticides: Website Functionality (*http:/www./epa.gov/pesticides/ppdc/distr-labeling/jan09/functionality.pdf*).

B. What is the Agency's Authority for Taking this Action?

EPA is taking this action under the authority of FIFRA, section 20(a). This section provides that "The Administrator shall undertake research . . . with . . . others as may be necessary to carry out the purposes of [FIFRA]." Here EPA is seeking to work with parties in the private sector to obtain information that will help EPA assess whether pesticides users would accept a web-distributed labeling program. This information is essential to understanding whether a web-distributed labeling system would improve users' compliance with pesticide labeling, thereby reducing risks to human health and the environment.

List of Subjects

Environmental protection, Internet, labeling, pesticides.

Dated: August 6, 2010.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2010–20449 Filed 8–17–10; 8:45 am]

BILLING CODE 6560–50–S

EXPORT–IMPORT BANK

[Public Notice 2010–0035]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 10–01A Long Term Transaction Questionnaire, EIB 10–01B Oil and Gas Company Questionnaire.

SUMMARY: The Export-Import Bank of the United States ("Ex-Im Bank") is the official export credit agency of the United States. Its mission is to create and sustain U.S. jobs by financing U.S. exports through direct loans, guarantees, insurance and working capital credit. The Consolidated Appropriations Act of 2010 (Pub. L. 111–117) ("the Act"), enacted December 16, 2009, provides for Ex-Im Bank's FY2010 budget authorization. As part of the U.S. government's efforts to strengthen sanctions against Iran, the Act contains language prohibiting Ex-Im Bank from:

Authoriz[ing] any new guarantee, insurance, or extension of credit for any project controlled by an energy producer or refiner that continues to: (A) provide Iran with significant refined petroleum resources; (B) materially contribute to Iran's capability to import refined petroleum resources; or (C) allow Iran to maintain or expand, in any material respect, its domestic production of refined petroleum resources, including any assistance in refinery construction, modernization, or repair.

See Sec. 7043 of the Act.

The Act is effectively immediately and applies to all authorizations Ex-Im Bank may make with FY2010 funds.

DATES: Comments should be received on or before October 18, 2010 to be assured of consideration.

ADRESSES: Comments maybe submitted electronically on *http://www.regulations.gov* or by mail to Faisal Siddiqui, Export-Import Bank of the United States, 811 Vermont Ave., NW. Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 10–01A Long Term Transaction Questionnaire,

EIB 10–01B Oil and Gas Company Questionnaire.

OMB Number: 3048–0030.

Type of Review: Regular.

Need and Use: This is a new collection to ensure compliance with the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), enacted December 16, 2009.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2010–20389 Filed 8–17–10; 8:45 am]

BILLING CODE 6690–01–P

FARM CREDIT ADMINISTRATION

RIN 3052–AC64

Joint and Several Liability Reallocation Agreement

AGENCY: Farm Credit Administration.

ACTION: Notice of joint and several liability reallocation agreement; request for comments.

SUMMARY: The Farm Credit Administration (FCA or we) is publishing for comment a Joint and Several Liability Reallocation Agreement (Agreement) to be entered into by all of the banks of the Farm Credit System (Farm Credit or System) and the Federal Farm Credit Banks Funding Corporation (Funding Corporation). The Agreement is designed to establish a procedure for nondefaulting banks to pay maturing System-wide debt on behalf of defaulting banks prior to a statutory joint and several call by the FCA.

DATES: You may send comments on or before September 17, 2010.

ADDRESSES: There are several methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the FCA's Web site. As facsimiles (faxes) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act (29 U.S.C. 794d), we are no longer accepting comments submitted by fax. Please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *E-mail:* Send us an e-mail at *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- *Federal E-Rulemaking Web site: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Send mail to Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of comments we receive at our office in McLean, Virginia, or on our Web site at *http://www.fca.gov.* Once you are in the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. We will attempt to remove e-mail addresses from comments (other than those submitted in a ".pdf" format) to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: Chris Wilson, Financial Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4204, TTY (703) 883–4434, or Rebecca S. Orlich, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objective

Our objective in publishing the Agreement is to seek public comment on the Agreement before the FCA Board determines whether or not to approve it.

II. Background

System associations obtain funding by means of direct loans from their affiliated Farm Credit Banks or Agricultural Credit Bank (collectively, System Banks or Banks). The Banks in turn obtain their funding primarily by issuing System-wide obligations to investors through the Funding Corporation.[1] The Banks' authority to issue System-wide obligations is provided in section 4.2(d) of the Farm Credit Act of 1971, as amended (Act).[2] Section 4.2(c) of the Act also authorizes the Banks to obtain funding by issuing consolidated obligations with other Banks operating under the same title of the Act, but all of the System's joint funding at the present time is through System-wide obligations. Consolidated and System-wide obligations (also referred to as insured obligations) are insured by the Farm Credit System Insurance Corporation (FCSIC) using

[1] The Funding Corporation is the fiscal agent of the System established under section 4.9 of the Farm Credit Act of 1971, as amended (12 U.S.C. 2160). The Farm Credit Act is set forth in 12 U.S.C. 2001–2279cc.

[2] Section 4.2 of the Act is codified at 12 U.S.C. 2153.

funds in the Farm Credit Insurance Fund (Insurance Fund).

Investors in consolidated and System-wide obligations have three levels of repayment sources. The first level is each Bank's own primary liability under section 4.4(a)(2)(A) of the Act [3] for its portion of any consolidated or System-wide obligation from which it received the proceeds. The second level is payments made by the FCSIC out of the Insurance Fund under section 4.4(d) of the Act if the Bank that is primarily liable (defaulting Bank) is unable to pay. The third level is joint and several calls made by the FCA on nondefaulting Banks under section 4.4(a)(2) of the Act as follows:

- The FCA will make calls on nondefaulting Banks in proportion to each Bank's proportionate share of the aggregate available collateral held by all nondefaulting Banks. A Bank's "aggregate available collateral" is defined in section 4.4(a)(2)(C) of the Act as "the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral * * * exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations."
- If the aggregate available collateral does not fully satisfy the insured obligations of the defaulting Bank, the FCA will make calls on all nondefaulting Banks in proportion to each Bank's remaining assets. Section 4.4(d) of the Act prohibits the FCA from making joint and several calls "before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund."

The Act provides subrogation rights [4] to both the Banks and the FCSIC for payments of insured obligations made under the Act on behalf of a defaulting Bank. With respect to System Banks, section 4.4(a)(2)(E) provides:

> Any System bank that, pursuant to a call by the [FCA], makes a payment of principal or interest to the holder of any consolidated or System-wide obligations issued on behalf of another System bank shall be subrogated to the rights of the holder against such other bank to the extent of such payment.

With respect to the FCSIC, section 5.61(c)(1) and (2) of the Act [5] provides:

> [O]n the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the [FCSIC] shall be subrogated to all rights of the owner against the bank to the extent of the payment. * * * Subrogation * * * shall include the right on the part of the [FCSIC] to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

In 2007, the FCA amended the priority of claims regulation in § 627.2750 of our regulations [6] to give priority rights to System Banks for payments made under a joint and several reallocation agreement to holders of insured obligations on behalf of a defaulting Bank (72 FR 54527 (September 26, 2007)). That provision now accords the priority, prior to payment of the claims of general creditors, as follows:

> (h) All claims of holders of consolidated and System-wide bonds and all claims of the other Farm Credit banks arising from their payments on consolidated and System-wide bonds pursuant to 12 U.S.C. 2155 [section 4.4 of the Act] or pursuant to an agreement among the banks to reallocate the payments, provided that agreement is in writing and approved by the Farm Credit Administration.

This regulation means that System Banks will have the same subrogation rights for payments made under a reallocation agreement that they would have if they made payments under joint and several calls by the FCA as provided for in section 4.4 of the Act.

III. System Banks' and Funding Corporation's Request for Approval of the Agreement

The System Banks and the Funding Corporation (collectively the "parties") have informed us that they have reached a consensus on a formula for allocating a defaulting bank's portion of consolidated or System-wide obligations (after exhaustion of the Insurance Fund) based on each Bank's percentage of insured obligations and accrued interest outstanding to the total amount of insured obligations outstanding (debt-based method) and have drafted an agreement (Agreement) to that effect. The parties indicated they believe the debt-based method of allocation is more equitable than the collateral-based allocation method provided in the Act. The boards of directors of all the Banks and the board of directors of the Funding Corporation have each adopted resolutions authorizing their institutions to enter into the Agreement, and the boards of the Banks have authorized the issuance of insured obligations to satisfy joint and several payments under the Agreement. The parties have submitted the proposed Agreement to the FCA for our approval under § 627.2750(h) and have requested the FCSIC to provide an expression of non-objection to the Agreement.

The boards of directors of the parties have also authorized their institutions to make conforming amendments to the Amended and Restated Market Access Agreement (MAA) to allow certain actions under the Agreement.[7] The MAA is an agreement among the Banks and the Funding Corporation that establishes criteria and procedures to provide oversight and control of a Bank's access to System-wide debt funding if the creditworthiness of the Bank declines below specified levels. Banks not meeting the criteria are placed in one of three categories depending on the severity of the problems. A Category I Bank has additional reporting requirements. A Category II Bank's ability to participate in issuances of System-wide obligations may be restricted. A Category III Bank may be prohibited from participating in System-wide obligations. The proposed amendments to the MAA provide that, in a circumstance where the joint and several payment provisions of the Agreement have been triggered, all nondefaulting Banks will be able to issue System-wide obligations to fund payments under the Agreement. This means that even Banks in Category II and III could participate in such issuances. Therefore, the Banks and the Funding Corporation have proposed amendments to the MAA to permit this. Should the FCA approve the Agreement, the FCA expects also to approve the amendments to the MAA and will publish the amendments in the **Federal Register**.

IV. Effect of the Agreement

In general, the alternative debt-based methodology requires System Banks with higher relative amounts of outstanding debt to pay a proportionately larger share under the Agreement. In contrast, under the statutory collateral-based method, Banks that maintain higher levels of excess collateral are required to pay a proportionately greater amount under a joint and several call.

We believe the likelihood of the Agreement actually being used is remote. For a joint and several call to be issued to nondefaulting System Banks, a System Bank would first have to default

[3] Section 4.4 of the Act is codified at 12 U.S.C. 2155.

[4] A right of subrogation means to stand in the place or "shoes" of another with regard to a legal right or claim.

[5] Section 5.61 is codified at 12 U.S.C. 2277a–10.

[6] The FCA's regulations are in Title 12, Chapter VI, Parts 600—end of the Code of Federal Regulations.

[7] The MAA is available at *http://www.farmcredit-ffcb.com/pdfs/MarketAccessAgreement.pdf*. The FCA published the original version of the MAA in the **Federal Register** (59 FR 25644 (May 17, 1994)), and also published the Restated MAA (68 FR 2037 (January 15, 2003)).

on a maturing insured obligation and the amount of such obligation would have to exceed the amounts in the Insurance Fund available to pay defaulted insured obligations. In our judgment, it is reasonable to believe that the Banks may build more capital under the Agreement. Consequently, we believe that holders of consolidated and System-wide debt obligations are unlikely to be harmed by the alternative debt-based methodology. However, we are asking commenters to specifically comment on the comparisons and differences of each method in terms of how they benefit the Banks in their ability to pay insured obligations when one or more of the Banks default.

V. Description of the Agreement

Article I sets forth defined terms. An included term is "Funding Certificate," which is a notification by the FCSIC to the Banks and the Funding Corporation that the Insurance Fund will not have enough funds to make an upcoming payment on maturing insured obligations that is due on behalf of a defaulting Bank. This will be the FCSIC's signal that the Insurance Fund is about to be exhausted, and the notification is intended to start the allocation payment procedure specified in the Agreement before the actual exhaustion of the Fund (and before the FCA is required by the Act to commence joint and several calls in accordance with the statutory collateral-based method). Another key definition is "Initial Allocation Percentage," which is a nondefaulting Bank's proportion of a defaulting Bank's insured obligation. This percentage is calculated by dividing a nondefaulting Bank's insured obligations by an amount equal to the sum of all nondefaulting Banks' insured obligations.

Article II sets forth the steps of the Agreement's allocation procedure, including providing for the Funding Corporation to issue new insured obligations to pay the maturing obligations of a defaulting bank under certain circumstances.

Article III contains the parties' representations and warranties, as well as certain covenants.

Article IV describes the effect of the Agreement. It states that the parties agree that nothing in the Agreement or the FCA's approval of the Agreement or the FCSIC's non-objection restricts or qualifies the authority of the FCA or the FCSIC to exercise any of their powers, rights, or duties, including the FCA's power to make joint and several calls under section 4.4 of the Act and to appoint conservators and receivers under section 4.12 of the Act. Furthermore, the parties agree that the Agreement does not provide any grounds for challenging the actions of the FCA and the FCSIC with respect to the creation or conduct of conservatorships or receiverships.

Article V provides that the parties will arbitrate any disputes relating to the Agreement.

Article VI provides indemnification for the Banks, the Funding Corporation, and their directors, officers, stockholders, employees, and agents.

Article VII sets forth how the Agreement can be terminated. Some of the termination events are unanimous agreement by the parties (other than defaulting Banks not entitled to vote) to terminate; and withdrawal of the FCA's approval of, or withdrawal of the FCSIC's non-objection to, the Agreement. Should the Agreement terminate, the FCA would make any subsequent joint and several calls according to the Act.

Article VIII contains confidentiality provisions, and Article IX contains miscellaneous provisions.

The FCA is now seeking public comment on the Agreement, which is set forth below:

JOINT AND SEVERAL LIABILITY REALLOCATION AGREEMENT

This JOINT AND SEVERAL LIABILITY REALLOCATION AGREEMENT (the "Agreement") is made as of the [___] day of [_____] (the "Effective Date"), by and among AgFirst Farm Credit Bank; AgriBank, FCB; CoBank, ACB; the Farm Credit Bank of Texas; and the U.S. AgBank, FCB (each, a "Bank," and collectively, the "Banks"), and the Federal Farm Credit Banks Funding Corporation (the "Funding Corporation").

WHEREAS, Section 4.4 of the Farm Credit Act of 1971, as amended (the "Act"), sets forth a collateral-based allocation methodology (the "Collateral Method") for addressing the joint and several obligations of the Banks to make, as called upon by the Farm Credit Administration (the "FCA"), payments of principal and interest due on Insured Debt Obligations (as defined herein) for which the Bank that is primarily liable thereon is unable to pay;

WHEREAS, the parties hereto desire to adopt the debt-based allocation methodology (the "Debt-Based Method") set forth herein for allocating, prior to a statutory call by the FCA pursuant to Section 4.4 of the Act, the joint and several obligations of the Banks to make payments of principal and interest due on Insured Debt Obligations for which the Bank that is primarily liable thereon is unable to pay;

WHEREAS, the boards of directors of the Banks and of the Funding Corporation gave approval to the Agreement subject to certain conditions;

WHEREAS, the Agreement was submitted to FCA for approval and to the Farm Credit System Insurance Corporation (the "Insurance Corporation") for an expression of no objection;

WHEREAS, the FCA published this Agreement in the *Federal Register* on [_____] and sought comments thereon;

WHEREAS, after receiving comments, the FCA, on ___, approved this Agreement subject to modifications, if any, that are acceptable to the parties and a notice of such approval was published in the *Federal Register* on [_____];

WHEREAS, pursuant to the letter dated [_____], from the FCA to the Banks and the Funding Corporation, the FCA approved this Agreement and confirmed, based on its statutory authority, that for the purpose of causing payment as set forth in this Agreement, it will consider a Bank Notice or Alternative to the Bank Notice relating to a Bank not in receivership as a request to make the determinations needed for a Default Certificate, and will consider a Bank Notice or an Alternative to the Bank Notice as a request to make the determinations needed for an MPI Certificate, and, if any such determinations are made, to provide notice of such to the Banks and the Funding Corporation;

WHEREAS, the Insurance Corporation, pursuant to the letter dated [____], from the Insurance Corporation to the Banks and the Funding Corporation, expressed no objection to this Agreement and confirmed that for the purposes of causing payment as set forth in this Agreement, it will consider a Bank Notice or Alternative to the Bank Notice relating to a Bank in receivership as a request to make the determinations needed for a Default Certificate, and a Bank Notice or Alternative to the Bank Notice as a request to make the determinations needed for a Funding Certificate, and, if any such determinations are made, to provide notice of such to the Banks and the Funding Corporation;

WHEREAS, the parties hereto are entering this Agreement in reliance on § 611.1270, § 627.2750, and § 627.2755 of FCA's regulations in their present form, respectively;

WHEREAS, the parties are mindful of FCA's independent authority under Section 5.17(a)(10) of the Act to ensure the safety and soundness of banks, FCA's independent authority under

Sections 4.2 and 4.9 of the Act to approve the terms of specific issuances of debt securities, the Insurance Corporation's independent authority under Part E of Title V of the Act, and the banks' independent obligations under Section 4.3(c) of the Act to maintain necessary collateral levels for debt securities;

WHEREAS, the Banks are entering into this Agreement pursuant to Section 1.5, Section 3.1, Section 4.2(c), and Section 4.2(d) of the Act; and

WHEREAS, the Funding Corporation is entering into this Agreement pursuant to Section 4.9(b) of the Act;

NOW THEREFORE, in consideration of the foregoing, the mutual promises and agreements herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

Article I. Definitions

As used in this Agreement, the following defined terms shall have the meanings described below:

Section 1.01 "Act" shall have the meaning set forth in the Recitals hereto.

Section 1.02 "Agreement" shall have the meaning set forth in the Preamble hereto.

Section 1.03 "Allocation Payment(s)" shall have the meaning set forth in Section 2.01 hereof.

Section 1.04 "Allocation Payment Debt" shall have the meaning set forth in Section 2.03(a) hereof.

Section 1.05 "Allocation Payment Investments" shall mean the assets or investments, including but not limited to cash or cash equivalents, of a Bank that is a Category II or Category III Bank under the Market Access Agreement (as defined herein), to the extent those assets may be sold at market value (as defined in § 615.5045 of the FCA Regulations).

Section 1.06 "Alternative to the Bank Notice" shall have the meaning set forth in Section 2.02(b) hereof.

Section 1.07 "Assertion" shall have the meaning set forth in Section 6.04(a) hereof.

Section 1.08 "Average Insured Debt Obligations" shall mean a Bank's twelve (12) month average daily balance of principal and interest accrued on Insured Debt Obligations, with the average daily balance for each Bank calculated in accordance with generally accepted accounting principles ("GAAP"), on the basis of the 12-month period ending on the last day of the last month prior to the receipt of the Bank Notice or the findings of an Alternative to the Bank Notice.

Section 1.09 "Bank" or "Banks" shall have the meaning set forth in the Preamble hereto.

Section 1.10 "Bank Notice" shall have the meaning set forth in Section 2.02(a)(ii) hereof.

Section 1.11 "Business Day" shall mean any day other than (1) a Saturday or Sunday, (2) a day on which the Federal Reserve Bank of New York is closed for business, or (3) with respect to any payment in respect of any book-entry security, a day on which the Federal Reserve Bank maintaining the book-entry account relating to such book-entry security is closed for business.

Section 1.12 "Collateral Method" shall have the meaning set forth in the Recitals hereto.

Section 1.13 "Debt-Based Method" shall have the meaning set forth in the Recitals hereto.

Section 1.14 "Default Certificate" shall mean a certificate prepared by the FCA, in the case of a Bank not in receivership, or the Insurance Corporation (acting in its corporate capacity), in the case of a Bank in receivership, in such form as the FCA or the Insurance Corporation may, in their respective discretion, provide, determining that a Bank is a Defaulting Bank, and specifying the Defaulted Maturing Obligation Amount.

Section 1.15 "Defaulted Maturing Obligation" shall mean a Maturing Obligation for which the Bank primarily liable thereon is unable to pay in full when due.

Section 1.16 "Defaulted Maturing Obligation Allocation Amount" shall mean the amount of the Defaulted Maturing Obligation Amount that remains unpaid after exhausting the Fund, as specified in the Funding Certificate, reduced by the amount of any payment by a Bank, as required pursuant to § 611.1270, to make provision for such Bank's joint and several liability.

Section 1.17 "Defaulted Maturing Obligation Amount" shall mean the amount due on a Defaulted Maturing Obligation that the Defaulting Bank primarily liable for such Defaulted Maturing Obligation is unable to pay.

Section 1.18 "Defaulting Bank" shall mean a Bank that is unable to make full payment on a Maturing Obligation for which it is primarily liable.

Section 1.19 "Effective Date" shall have the meaning set forth in the Preamble hereto.

Section 1.20 "FCA" shall have the meaning set forth in the Recitals hereto.

Section 1.21 "Fund" shall mean the Farm Credit Insurance Fund established under the Act.

Section 1.22 "Funding Certificate" shall mean a certificate prepared by the Insurance Corporation (acting in its corporate capacity), in such form as the Insurance Corporation may, in its discretion, prescribe, specifying (i) that the Fund will have insufficient funds to pay a Defaulted Maturing Obligation Amount in full, and (ii) the amount of the Defaulted Maturing Obligation Amount that remains unpaid after exhausting the Fund in making payment of the Defaulted Maturing Obligation Amount.

Section 1.23 "Funding Corporation" shall have the meaning set forth in the Preamble hereto.

Section 1.24 "Funding Notice" shall have the meaning set forth in Section 2.03(b) hereof.

Section 1.25 "Initial Allocation Amount" shall have the meaning set forth in Section 2.01 hereof.

Section 1.26 "Initial Allocation Percentage" shall mean the percentage that (i) a single Non-Defaulting Bank's Average Insured Debt Obligations represents of (ii) the sum of all Non-Defaulting Banks' Average Insured Debt Obligations.

Section 1.27 "Insurance Corporation" shall have the meaning set forth in the Recitals hereto.

Section 1.28 "Insured Debt Obligation(s)" shall mean an "insured obligation" as defined in Section 5.51(3) of the Act.

Section 1.29 "Market Access Agreement" shall mean the Amended and Restated Market Access Agreement, dated July 1, 2003, by and among AgFirst Farm Credit Bank; AgriBank, FCB; CoBank, ACB; the Farm Credit Bank of Texas; and U.S. AgBank, FCB (as successor to the Farm Credit Bank of Wichita and the Western Farm Credit Bank under Section 7.12 of the Amended and Restated Market Access Agreement); and the Federal Farm Credit Banks Funding Corporation, as the same may be supplemented, amended, or restated from time to time as provided for therein.

Section 1.30 "Maturing Obligation(s)" shall mean the principal and/or interest on an Insured Debt Obligation payable on a specific date for which one Bank is primarily liable.

Section 1.31 "Maximum Permitted Indebtedness" shall mean the maximum amount of Insured Debt Obligations that a Bank is permitted to issue on the basis of its available collateral as defined in Sections 4.3 and 4.4 of the Act.

Section 1.32 "MPI Adjustment" shall have the meaning set forth in Section 2.02(b)(iv) hereof.

Section 1.33 "MPI Bank(s)" shall mean a Non-Defaulting Bank that has

previously reached its Maximum Permitted Indebtedness, or would exceed its Maximum Permitted Indebtedness without an "MPI Adjustment" as provided in Section 2.02(b)(iv) hereof.

Section 1.34 "MPI Certificate" shall mean a certificate prepared by the FCA, in such form as the FCA may, in its discretion, prescribe, specifying the Maximum Permitted Indebtedness for each of the Non-Defaulting Banks.

Section 1.35 "Non-Defaulting Bank(s)" shall mean, with respect to a Defaulted Maturing Obligation for which such Bank(s) is jointly and severally liable under the Collateral Method, a Bank other than a Defaulting Bank.

Section 1.36 "Notice" shall have the meaning set forth in Section 9.07 hereof.

Section 1.37 "Payment Conditions" shall have the meaning set forth in Section 2.02(c) hereof.

Section 1.38 "Payment Date" shall be the date that a payment on a Defaulted Maturing Obligation is due.

Section 1.39 "Preliminary Bank Notice" shall have the meaning set forth in Section 2.02(a) hereof.

Section 1.40 "System" shall mean the Farm Credit System.

Section 1.41 "Systemwide Debt" shall mean debt issued under Section 4.2(d) of the Act.

Section 1.42 "Termination Date" shall have the meaning set forth in Section 7.01 hereof.

Section 1.43 "U.S. Arbitration Act" shall mean 9 U.S.C. 1 *et seq.,* as amended from time to time.

Section 1.44 "Voting Bank(s)" shall have the meaning set forth in Section 7.01(a) hereof.

Article II. Terms of Reallocation

Section 2.01 Debt-Based Allocation

With respect to each Defaulted Maturing Obligation for which the Payment Conditions have been met, each Non-Defaulting Bank shall make joint and several liability payments pursuant to the Debt-Based Method as described herein (in lieu of application of the Collateral Method) through the Funding Corporation of a portion of the Defaulted Maturing Obligation Allocation Amount equal to such Non-Defaulting Bank's Initial Allocation Percentage, calculated as of the date on which the Payment Conditions under Section 2.02(c) hereof have been satisfied, multiplied by the total amount of such Defaulted Maturing Obligation Allocation Amount (each an "Initial Allocation Amount"), as adjusted pursuant to Section 2.02(b)(iv) if any adjustment is required thereunder (each Initial Allocation Amount, adjusted if required pursuant to Section 2.02(b)(iv), an "Allocation Payment").

Section 2.02 Allocation Procedure

(a) Each Bank shall make a good faith effort to determine as promptly as practicable whether it will be able to make full payment when due on each Maturing Obligation for which it is primarily liable. As promptly as practicable after a Bank determines that there is a reasonable likelihood that it will not be able to make full payment on a Maturing Obligation for which it is primarily liable, such Bank shall deliver a notice to each of the other Banks, the Funding Corporation, the FCA, and the Insurance Corporation indicating that it anticipates not being able to make full payment when due on such Maturing Obligation (each, a "Preliminary Bank Notice").

(i) As promptly as practicable after such determination, such Bank shall make a good faith effort to determine the amount of such Maturing Obligation as to which it will not be able to make payment when due.

(ii) After a Bank has determined the amount of the Maturing Obligation for which it is primarily liable but for which such Bank will not be able to make payment when due, such Bank shall promptly deliver a notice to each of the other Banks, the Funding Corporation, the FCA, and the Insurance Corporation indicating the amount of the Maturing Obligation that it will be unable to pay (the "Bank Notice").

(b) Upon the delivery of a Bank Notice under Section 2.02(a)(ii) hereto, or, in the absence of delivery of a Bank Notice, if the FCA or the Insurance Corporation (acting in its corporate capacity) believes there is a reasonable basis that a Bank will be unable to make full payment on a Maturing Obligation for which it is primarily liable (an "Alternative to the Bank Notice"), the following steps shall occur in the following order for each such Maturing Obligation:

(i) The Funding Corporation shall determine the Defaulted Maturing Obligation Allocation Amount. Before such determination shall be made, the following shall have been delivered to the Banks and the Funding Corporation:

(1) A Default Certificate with respect to the Bank primarily liable for such Maturing Obligation;

(2) A Funding Certificate with respect to the Defaulted Maturing Obligation Amount; and

(3) An MPI Certificate.

(ii) The Funding Corporation shall determine the Initial Allocation Percentage for each Non-Defaulting Bank with respect to the Defaulted Maturing Obligation Allocation Amount, and the Initial Allocation Amount for each such Bank, pursuant to Section 2.01 hereto.

(iii) The Funding Corporation shall determine whether an MPI Adjustment shall be made pursuant to Section 2.02(b)(iv) hereof. In the event no Non-Defaulting Banks are MPI Banks, or would become MPI Banks as a result of making full payment of their respective Initial Allocation Amounts, no MPI Adjustment shall be made to any Non-Defaulting Bank's Allocation Payment, and each Non-Defaulting Bank's Initial Allocation Amount shall be its Allocation Payment. In the event any Non-Defaulting Bank is an MPI Bank, or would become an MPI Bank as a result of making full payment of its Initial Allocation Amount, an MPI Adjustment shall be made to each Non-Defaulting Bank's Initial Allocation Amount pursuant to Section 2.02(b)(iv) hereof. Any Bank that has terminated its System status shall be deemed to be an MPI Bank for purposes of calculating the MPI Adjustment, and any such Bank's Allocation Payment shall be zero.

(iv) If there is one (or more) MPI Bank, the Funding Corporation shall determine the MPI Adjustment for each Non-Defaulting Bank, as follows (the adjustment as calculated under this subsection, the "MPI Adjustment"):

(1) Such adjustment shall be made by first reducing the amount of the Defaulted Maturing Obligation Allocation Amount allocated to each MPI Bank such that each MPI Bank's allocation does not cause each such Bank to exceed its Maximum Permitted Indebtedness.

(2) An increase equal to the amount of the reduction described in Section 2.02(b)(iv)(1) above shall be made by increasing the amount of the Defaulted Maturing Obligation Allocation Amount allocated to each remaining Non-Defaulting Bank that is not an MPI Bank before such adjustment, in proportion to the ratio of such remaining Non-Defaulting Bank's Average Insured Debt Obligations compared to the sum of the Average Insured Debt Obligations for each Non-Defaulting Bank that is not an MPI Bank before such adjustment.

(3) In the event the adjustment in Section 2.02(b)(iv)(2) shall cause any Non-Defaulting Bank to become an MPI Bank, the steps in Section 2.02(b)(iv)(1) and Section 2.02(b)(iv)(2) shall be repeated with respect to the amount of the Defaulted Maturing Obligation Allocation Amount allocated to such MPI Bank in excess of its Maximum Permitted Indebtedness, until the entire Defaulted Maturing Obligation

Allocation Amount has been allocated among the Non-Defaulting Banks or cannot be so allocated because each Non-Defaulting Bank would exceed its Maximum Permitted Indebtedness.

(4) In the event the entire Defaulted Maturing Obligation Allocation Amount cannot be so allocated under the Debt-Based Method, the Funding Corporation shall promptly notify the FCA and Insurance Corporation that a default on a payment of principal or interest on Insured Debt Obligations is imminent. Notwithstanding any such notification, this Agreement shall continue in effect unless terminated pursuant to Section 7.01.

(c) Payment Conditions. Each of the following conditions must be satisfied before a Non-Defaulting Bank shall be obligated to make an Allocation Payment (collectively, the "Payment Conditions") pursuant to this Agreement:

(i) Default Certification. A Default Certificate has been delivered to each of the Banks and the Funding Corporation.

(ii) Funding Certification. A Funding Certificate has been delivered to each of the Banks and the Funding Corporation.

(iii) MPI Certification. An MPI Certificate has been delivered to each of the Banks and the Funding Corporation.

(iv) No Call. The FCA shall not have invoked its statutory call authority under Section 4.4 of the Act with respect to the Defaulted Maturing Obligation.

Section 2.03 Satisfaction of Allocation Payment

(a) With respect to a Defaulted Maturing Obligation Allocation Amount, each Non-Defaulting Bank hereby authorizes the Funding Corporation, for the purpose of making such Non-Defaulting Bank's Allocation Payment, to issue Systemwide Debt on such Non-Defaulting Bank's behalf on the Payment Date in the amount of the Non-Defaulting Bank's Allocation Payment, increased by the amount of any dealer concessions and other applicable fees required to issue Systemwide Debt ("Allocation Payment Debt"); provided that (i) the Payment Conditions have been satisfied as of the date and time of such issuance, (ii) the Funding Notice has been given as provided herein, and (iii) such Non-Defaulting Bank that is eligible to make an election under Section 2.03(c) hereof has not made such an election with respect to funding such Allocation Payment with cash, or, if such election has been made such Bank making the election has not fully paid its Allocation Payment in cash by the agreed upon date and time under Section 2.03(c). Each Non-Defaulting Bank hereby irrevocably authorizes the Funding Corporation to apply the net proceeds of any issuance pursuant to the preceding sentence to the payment of such Non-Defaulting Bank's Allocation Payment, provided that the Payment Conditions have been satisfied at the Payment Date. Each Non-Defaulting Bank for which Allocation Payment Debt will be issued may propose to the Funding Corporation preferred terms and conditions for such Allocation Payment Debt. After consultation on an individual basis with each Non-Defaulting Bank for which Allocation Payment Debt will be issued, the Funding Corporation, acting for each Non-Defaulting Bank, shall issue Allocation Payment Debt on behalf of each Non-Defaulting Bank in accordance with Section 4.9 of the Act, taking into consideration the preferred terms and conditions proposed by such Non-Defaulting Bank. Each Non-Defaulting Bank liable for an Allocation Payment under this Agreement shall fund such Allocation Payment, or any portion thereof, with cash upon its election under Section 2.03(c) or if required to do so under Section 2.03(d) hereof.

(b) The Funding Corporation shall give each Bank, the FCA and the Insurance Corporation notice no later than the Payment Date of its intent to exercise its authority under Section 2.03(a) hereto to issue Allocation Payment Debt (each a "Funding Notice"), which Funding Notice shall also state the applicable Allocation Payment for each Non-Defaulting Bank, and the Payment Date.

(c) A Non-Defaulting Bank may elect to make its Allocation Payment in cash in lieu of issuing Allocation Payment Debt. Each Non-Defaulting Bank must deliver notice of its election under this Section 2.03(c) to the Funding Corporation within time limits prescribed by the Funding Corporation, which time limits shall be set in accordance with the Funding Corporation's deadlines for issuing Insured Debt Obligations. Each Non-Defaulting Bank funding its Allocation Payment with cash and the Funding Corporation shall use reasonable and timely efforts to agree on a date and time by which such Non-Defaulting Bank must deliver the cash to the Funding Corporation. If the Funding Corporation does not receive the cash by the agreed upon date and time, the Funding Corporation shall issue Allocation Payment Debt in accordance with Section 2.03(a) hereto.

(d) Notwithstanding the provisions of Section 2.03(c) hereto, any Non-Defaulting Bank that is in Category II or Category III under the Market Access Agreement shall be required to submit a cash payment to the Funding Corporation, in an amount equal to the lesser of (i) such Bank's Allocation Payment, or (ii) such Bank's Allocation Payment Investments. Any such Non-Defaulting Bank that is in Category II or Category III under the Market Access Agreement shall submit such a cash payment to the Funding Corporation to be held in escrow on the later of (i) the date such Bank is notified of its Allocation Payment or (ii) two (2) Business Days prior to the Payment Date. A Non-Defaulting Bank that is obligated to make a cash payment under this Section 2.03(d) in an amount less than its full Allocation Payment shall nevertheless be liable for the full amount of its Allocation Payment. The Funding Corporation shall be permitted to issue Allocation Payment Debt on behalf of any Bank making a cash payment pursuant to this Section 2.03(d) in an amount not to exceed the excess of such Bank's Allocation Payment (increased by the amount of any dealer concessions and other applicable fees required to issue Allocation Payment Debt) over such Bank's Allocation Payment Investments.

(e) The proceeds of Allocation Payment Debt or any cash delivered pursuant to Section 2.03(c) or Section 2.03(d) shall be used by the Funding Corporation solely to satisfy the Defaulted Maturing Obligation Allocation Amount with respect to which it was issued and for no other purpose, except that any portion of Allocation Payment Debt issued to cover dealer concessions and other applicable fees required to issue Allocation Payment Debt may be used for that limited purpose.

(f) The inability or failure of the Funding Corporation to issue Allocation Payment Debt shall not relieve the Non-Defaulting Banks from the obligation to make their respective Allocation Payments.

(g) Any Bank that makes an Allocation Payment to a holder of a Defaulted Maturing Obligation, directly or indirectly pursuant to this Agreement, shall have a priority of claim in accordance with § 627.2750 and § 627.2755 of FCA's regulations.

Section 2.04 Market Access Agreement

The limitations under the Market Access Agreement on the amount of Insured Debt Obligations that a Bank is permitted to issue shall not be applicable to Allocation Payment Debt.

Section 2.05 Provision of Information

Each Bank shall provide to the Funding Corporation pertinent materials and information requested by the Funding Corporation with respect to the calculations to be performed by the Funding Corporation under this Article II, as the Funding Corporation shall reasonably request in writing from the Banks. All Banks shall summarize, aggregate, or analyze data, as well as provide raw data, in such manner as the Funding Corporation may reasonably request. Such information shall be promptly updated or supplemented as the Funding Corporation so requests in writing of the Banks by such deadlines as the Funding Corporation may reasonably specify. Each Bank attests that any information delivered to the Funding Corporation pursuant to this Section 2.05 is true to the best of such Bank's knowledge. The Funding Corporation shall be entitled to rely on information provided to it pursuant to this Section without independently verifying the information.

Article III. Representations and Warranties and Certain Covenants

Section 3.01 Representations and Warranties of Each Bank to Every Other Bank and the Funding Corporation

Each Bank represents, warrants and acknowledges to each of the other parties to this Agreement that:

(a) *Organization.* Such Bank is an instrumentality, duly organized and validly existing under the laws of the United States. Such Bank has all requisite power and authority (corporate and other) to own, lease and operate the properties used in its business as now being conducted.

(b) *Corporate Authority.* Such Bank has the corporate power and authority to enter into contracts and to exercise such other incidental powers as are necessary to carry out its powers, duties and functions in accordance with its charter and the Act. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by such Bank's board of directors and no other corporate proceedings on the part of such Bank are necessary to authorize or approve this Agreement and the transactions contemplated hereby.

(c) *Agreement Binding and Enforceable.* This Agreement has been duly executed and delivered by such Bank and is a valid and binding agreement of such Bank, enforceable against it in accordance with its terms, except that (i) such enforcement may be subject to those provisions of the Act and the regulations thereunder relating to the liquidation, receivership or conservatorship of institutions of the System and to other bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding thereof may be brought.

(d) *Compliance with Law.* The execution, delivery and performance by such Bank of this Agreement and the performance by it of the transactions contemplated hereby do not and will not violate or conflict with any other applicable law or regulation, or any order, judgment, injunction or decree of any court or governmental authority of competent jurisdiction which is binding on such Bank or by which the assets of such Bank are bound.

(e) *Compliance with Obligations.* The execution, delivery and performance by such Bank of this Agreement and the performance by it of the transactions contemplated hereby do not and will not violate, conflict with or constitute breach of or a default under its charter or bylaws or any other agreement or instrument to which it is a party (or which is binding on its assets), such that any such violation, conflict, breach or default, after giving effect to the transactions contemplated hereby, is reasonably likely to have a material adverse effect on such Bank's observance or performance of this Agreement or the performance of the transactions contemplated hereby.

(f) *Claims, Suits.* There is no governmental or non-governmental action, suit, or proceeding (or claim of which it has been notified) which is pending or, to the best knowledge of such Bank, threatened against or affecting such Bank that would (i) materially and adversely affect the ability of such Bank to conduct its business as presently conducted, or (ii) prevent, hinder or delay the consummation of the transactions contemplated hereby.

(g) *Funding Resolution.* Such Bank has amended its current standing funding resolution adopted by its board of directors to authorize issuances of Allocation Payment Debt without any limitation on the amount of Allocation Payment Debt that could be issued to the fullest extent permitted by applicable law.

Section 3.02 Representations and Warranties of the Funding Corporation to each Bank

The Funding Corporation hereby represents, warrants and acknowledges to each of the other parties to this Agreement that:

(a) *Organization.* The Funding Corporation is an instrumentality, duly organized and validly existing under the laws of the United States. The Funding Corporation has all requisite power and authority (corporate and other) to own, lease and operate the properties used in its business as now being conducted.

(b) *Corporate Authority.* The Funding Corporation has the corporate power and authority to enter into contracts and to exercise such other incidental powers as are necessary to carry out its powers, duties and functions in accordance with its charter and the Act. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by the board of directors of the Funding Corporation and no other corporate proceedings on the part of the Funding Corporation are necessary to authorize or approve this Agreement and the transactions contemplated hereby.

(c) *Binding Agreement.* This Agreement has been duly executed and delivered by the Funding Corporation and is valid, binding and enforceable against the Funding Corporation in accordance with its terms, except that (i) such enforcement may be subject to those provisions of the Act and the regulations thereunder relating to the liquidation, receivership or conservatorship of institutions of the System and to other bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding thereof may be brought.

(d) *Compliance with Law.* The execution, delivery and performance by the Funding Corporation of this Agreement and the performance by it of the transactions contemplated hereby do not and will not violate or conflict with any applicable law or regulation, or any order, judgment, injunction or decree of any court or governmental authority of competent jurisdiction which is binding on the Funding Corporation or by which the assets of the Funding Corporation are bound.

(e) *Compliance with Obligations.* The execution, delivery and performance by the Funding Corporation of this Agreement and the performance by the Funding Corporation of the transactions contemplated hereby do not and will not violate, conflict with or constitute breach of or a default under the charter or bylaws of the Funding Corporation or any other agreement or instrument to which the Funding Corporation is a party (or which is binding on its assets), such that any said violation, conflict, breach or default, after giving effect to the transactions contemplated hereby, is reasonably likely to have a material adverse effect on the Funding Corporation's observance or performance of this Agreement or the performance by the Funding Corporation of the transactions contemplated hereby.

(f) *Claims, Suits.* There is no governmental or non-governmental action, suit, or proceeding (or claim of which the Funding Corporation has been notified) which is pending or, to the best knowledge of the Funding Corporation, threatened against or affecting the Funding Corporation that would (i) materially and adversely affect the ability of the Funding Corporation to conduct its business as presently conducted, or (ii) prevent, hinder or delay the consummation of the transactions contemplated hereby.

Section 3.03 Covenants of the Parties

(a) *Further Assurances.* Subject to the terms and conditions of this Agreement, each party hereto shall use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations or otherwise to fulfill its obligations under this Agreement.

(b) *Organizational Documents.* Each party hereto shall not (i) amend, modify or otherwise supplement its charter or bylaws, or (ii) amend, modify, supplement, terminate or withdraw its standing funding resolution referenced in Section 3.01(g) hereof, if such action under (i) or (ii) could, directly or indirectly, impede the issuance of Allocation Payment Debt. If any of the actions specified in (i) or (ii) of this Section 3.03(b) are taken by the Board of Directors of any party, and such action could, directly or indirectly, impede the issuance of Allocation Payment Debt, such action shall be deemed a breach of this Agreement.

(c) *No Challenge to this Agreement.* Without implying that judicial action, arbitration, or other similar proceeding may be brought on any other matter, each Bank and the Funding Corporation specifically agree not to bring any judicial action, arbitration, or other similar proceeding to challenge the validity or enforceability of this Agreement.

Article IV. Effect of This Agreement

Section 4.01 Effect of This Agreement

(a) Notwithstanding any other provision of this agreement and FCA's approval of the agreement, including through **Federal Register** notice and comment, it is expressly agreed by the parties hereto that neither this agreement, nor the execution or approval of this agreement, nor the insurance corporation's expression of no objection shall be interpreted to restrict or qualify, in any way, the authority of the FCA or the Insurance Corporation to exercise any of their respective powers, rights or duties, including the FCA's ability to invoke the joint and several liability provisions set forth in Section 4.4 of the Act, or to appoint a receiver or conservator.

(b) Notwithstanding any other provision of this agreement, it is expressly agreed that this agreement, FCA's approval thereof, and the Insurance Corporation's expression of no objection do not provide any grounds for challenging FCA or Insurance Corporation actions with respect to the creation of or the conduct of receiverships or conservatorships. Without limiting the preceding statement, each bank specifically and expressly agrees and acknowledges that it cannot, and agrees that it shall not, attempt to challenge FCA's appointment of a receiver or conservator for itself or any other System institution or FCA's or the Insurance Corporation's actions in the conduct of any receivership or conservatorship on the basis of this agreement or FCA's approval thereof or the Insurance Corporation's expression of no objection. The banks jointly and severally agree that they shall indemnify and hold harmless FCA and the Insurance Corporation against all costs, expenses and damages, including without limitation, attorneys' fees and litigation costs, resulting from any such challenge by any party.

Article V. Arbitration

Section 5.01 Agreement to Arbitrate

All disputes between or among the parties hereto relating to this Agreement or arising hereunder shall be submitted to final and binding arbitration pursuant to the U.S. Arbitration Act. Arbitrations shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association before a single arbitrator. Neither the fact of the existence of an arbitration or any part of the records of such arbitration shall be divulged without the consent of the parties hereto, provided, however, that any party bringing an arbitration action against another party to this Agreement shall provide notice to the FCA and the Insurance Corporation that arbitration among the parties is pending.

Section 5.02 Procedure; Location

The location of any arbitration proceedings under this Agreement shall be New York City, but such location may be changed by mutual agreement of the parties to such arbitration. An arbitrator shall be selected within fourteen (14) days of the initiation of arbitration by any party hereto, and the arbitrator shall render a decision within thirty (30) days of his or her selection, or as otherwise agreed to by the parties hereto. It is expressly agreed by the parties hereto that the arbitrator may order specific performance.

Section 5.03 Consistent Treatment of Each Bank

This Agreement will be interpreted and applied in arbitration in a fashion that ensures that each Bank is treated consistently.

Section 5.04 Arbitration Principles

If any party to this Agreement has taken any action or failed to take any action that results in the payment, in part or in full, of a Defaulted Maturing Obligation Allocation Amount by means of a statutory call by the FCA rather than pursuant to this Agreement, and such statutory call would not have been made but for the action or inaction of such a party to this Agreement, such action or inaction shall be deemed a breach of this Agreement. The arbitrator in any subsequent arbitration arising out of such action or inaction shall take the following principles into account in fashioning any remedies awarded in arbitration:

(a) The parties intend that the arbitrator give economic effect to this Agreement in the event a Defaulted Maturing Obligation Allocation Amount is funded, in part or in full, through a statutory call that would not have been made but for the action or inaction of a party to this Agreement.

(b) In the event of such action or inaction, the parties intend that each party to this Agreement will be put in the same economic position as each party would have occupied had the Defaulted Maturing Obligation Allocation Amount been allocated under this Agreement.

(c) Notwithstanding any failure of the payment condition specified in Section

2.02(c)(iv) to be met, the arbitrator shall be permitted to afford relief to the parties as indicated pursuant to the principles set forth in this Section 5.04.

(d) The arbitration principles set forth in this section shall not be construed to limit or affect the availability of any other relief that an arbitrator may choose to award in any arbitration pursuant to this Article V, including but not limited to an award of interest or consequential damages arising out of the actions or inactions of a party to this Agreement.

(e) The principles set forth in this Section 5.04 shall not apply to any Bank for which this Agreement has been repudiated by the conservator or receiver on behalf of such a Bank in conservatorship or receivership.

Article VI. Indemnification

Section 6.01 Definitions

As used in this Article VI:

(a) "Damages" shall mean any and all losses, costs, liabilities, damages and expenses, including, without limitation, court costs and reasonable fees and expenses of attorneys expended in investigation, settlement and defense (at the trial and appellate levels and otherwise), which are incurred by an Indemnified Party as a result of or in connection with any third-party claim alleging liability for actions taken pursuant to or in connection with this Agreement, excepting any of the aforesaid to the extent such amounts are incurred by an Indemnified Party as a result of breaching any of such Indemnified Party's duties or obligations under this Agreement or for the violation of any provision under Article III herein. Except to the extent otherwise provided in this Article VI, Damages shall be deemed to have been incurred by reason of a final settlement or the dismissal with prejudice of any such claim, or the issuance of a final nonappealable order by a court of competent jurisdiction which ultimately disposes of such a claim, whether favorable or unfavorable.

(b) "Indemnified Party" shall mean any Bank or the Funding Corporation, or any of the past, present or future directors, officers, stockholders, employees or agents of the foregoing.

(c) "Indemnity Payment" shall have the meaning set forth in Section 6.07(a) hereof.

Section 6.02 Indemnity

To the extent consistent with applicable law, the Banks (including any Bank seeking indemnification under the Agreement) shall indemnify and hold harmless each Indemnified Party against and in respect of Damages to the extent provided in Section 6.07, provided, however, that an Indemnified Party shall not be entitled to indemnification under this Article VI in connection with conduct of such Indemnified Party constituting gross negligence, willful misconduct, intentional tort or criminal act, or in connection with civil money penalties imposed by FCA; and provided further that no past, present or future directors, officers, stockholders, employees or agents of a Bank shall be entitled to indemnification under this Article VI in respect of Damages for which they could not be indemnified by such Bank pursuant to its bylaws, charter, or other agreements or instruments in effect as of the date of the act for which indemnification is being sought. Damages for which an Indemnified Party is entitled to indemnification shall be allocated to and payable by each Bank in proportion to such Bank's Average Insured Debt Obligations divided by the aggregate Average Insured Debt Obligations for all Banks, all of which shall be calculated in accordance with generally accepted accounting principles ("GAAP"), on the basis of the 12-month period ending on the last day of the last month prior to the date of the Assertion (as defined below).

Section 6.03 Advancement of Expenses

The Banks shall advance to an Indemnified Party, as and when incurred by the Indemnified Party, all reasonable expenses, court costs and attorneys' fees incurred by such Indemnified Party in defending any proceeding involving a claim against such Indemnified Party based upon or alleging any matter that constitutes, or if sustained would constitute a matter in respect of which indemnification is provided for in Section 6.02, so long as the Indemnified Party provides the Banks with a written undertaking to repay all amounts so advanced if it is ultimately determined by a court in a final nonappealable order or by agreement of the Banks and the Indemnified Party that the Indemnified Party is not entitled to be indemnified under Section 6.02. Expenses advanced to an Indemnified Party pursuant to this Section 6.03 shall be allocated to and payable by each Bank in proportion to such Bank's Average Insured Debt Obligations divided by the aggregate Average Insured Debt Obligations for all Banks, all of which shall be calculated in accordance with generally accepted accounting principles ("GAAP"), on the basis of the 12-month period ending on the last day of the last month prior to the date of the Assertion (as defined below).

Section 6.04 Assertion of Claim

(a) Promptly after the receipt by an Indemnified Party of notice of the assertion of any claim or the commencement of any action against him, her or it in respect of which indemnification may be sought against the Banks hereunder (each, an "Assertion"), such Indemnified Party shall provide written notice of such Assertion to the Banks. The failure to so notify the Banks shall not relieve the Banks of liability they may have to such Indemnified Party hereunder, except to the extent that failure to give such notice results in material prejudice to the Banks.

(b) The Banks shall be entitled to participate in, and to the extent the Banks elect in writing on thirty (30) days' notice, to assume, the defense of an Assertion, at their own expense, with counsel chosen by them and satisfactory to the Indemnified Party. Notwithstanding that the Banks shall have elected by such written notice to assume the defense of any Assertion, such Indemnified Party shall have the right to participate in the investigation and defense thereof, with separate counsel chosen by such Indemnified Party, but in such event the fees and expenses of such separate counsel shall be paid by such Indemnified Party and shall not be subject to indemnification by the Banks unless, in the absence of reasonable objections to the selection of such counsel by the Banks, (i) the Banks shall have agreed to pay such fees and expenses, (ii) the Banks shall have failed to assume the defense of such Assertion, or (iii) in the reasonable judgment of such Indemnified Party, based upon advice of his, her or its counsel, a conflict of interest may exist between the Banks and such Indemnified Party with respect to such Assertion, in which case, if such Indemnified Party timely notifies the Banks that such Indemnified Party elects to employ separate counsel at the Banks' expense, the Banks shall not have the right to assume the defense of such Assertion on behalf of such Indemnified Party. Notwithstanding anything to the contrary in this Article VI, neither the Banks, nor the Indemnified Party shall settle or compromise any action or consent to the entering of any judgment (a) without the prior written consent of the other, which consent shall not be unreasonably withheld, and (b) without obtaining, as an unconditional term of such settlement, compromise or consent, the delivery by the claimant or

plaintiff to such Indemnified Party of a duly executed written release of such Indemnified Party from all liability in respect of such Assertion, which release shall be satisfactory in form and substance to counsel to such Indemnified Party.

Section 6.05 Remedies; Survival

The indemnification, rights and remedies provided to an Indemnified Party under this Article VI shall be (i) in addition to and not in substitution for any other rights and remedies to which any of the Indemnified Parties may be entitled, under any other agreement with any other person, or otherwise at law or in equity, and (ii) except as otherwise specified in Section 6.07, provided prior to and without regard to any other indemnification available to any Indemnified Party. This Article VI shall survive the termination of this Agreement.

Section 6.06 No Rights in Third Parties

This Agreement shall not confer upon any person other than the Indemnified Party any rights or remedies of any nature or kind whatsoever under or by reason of the indemnification provided for in this Article VI.

Section 6.07 Indemnification Obligations Net of Insurance Proceeds and Other Amounts

(a) The parties intend that any Damages subject to indemnification or reimbursement pursuant to this Article VI will be net of applicable insurance recoveries. Accordingly, the amount which any Bank is required to pay to any Indemnified Party will be reduced by any insurance proceeds theretofore actually recovered by or on behalf of the Indemnified Party for the related Damages. If an Indemnified Party receives a payment required by this Agreement from a Bank (an "Indemnity Payment") in respect of any Damages and subsequently receives insurance proceeds applicable to those Damages, then the Indemnified Party will pay to such Bank an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the insurance proceeds had been received, realized or recovered before the Indemnity Payment was made.

(b) An insurer that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third party shall be entitled to a "windfall" (i.e., a benefit it would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions of this Article VI.

Section 6.08 Prevention of Duplication of Claims for Indemnification of Damages

(a) In the event a Bank or the Funding Corporation, Pursuant to its bylaws or an agreement (not including this Agreement) advances expenses to any of its past, present or future directors, officers, stockholders, employees or agents, or indemnifies them for Damages, such Bank or the Funding Corporation shall be entitled to be indemnified by each Bank to the same extent such past, present or future directors, officers, stockholders, employees or agents that received such advancement of expenses or indemnification of Damages would have been entitled to advancement or indemnification by such Bank under this Agreement.

(b) To the extent any past, present or future directors, officers, stockholders, employees or agents of a Bank or the Funding Corporation has been indemnified by such Bank or the Funding Corporation pursuant to their respective bylaws or an agreement (not including this Agreement), such past, present or future directors, officers, stockholders, employees or agents shall not be entitled to Indemnification under this Agreement.

Article VII. Term and Termination

Section 7.01 Term

This Agreement shall take effect on the Effective Date and shall terminate upon the first to occur of the following (the "Termination Date"):

(a) Upon the date specified in a notice to the Funding Corporation that the Voting Banks, as defined herein, elect to terminate the Agreement. Such notice shall be executed by each Bank (including a Bank in conservatorship or receivership provided that the conservator or receiver has not repudiated this Agreement on behalf of such Bank) that is not currently in default on any Maturing Obligation or identified as a Bank that will be unable to pay a Maturing Obligation for which it is primarily liable in a Default Certificate, is a member of the System subject to the obligation to make Allocation Payments, is fully performing on that obligation, and if the certifications listed in Section 2.02(c) hereof have been delivered to the Banks, the Bank would be able to fully fund its next anticipated Allocation Payment under this Agreement as determined in the Funding Corporation's reasonable discretion (each, a "Voting Bank," and collectively, the "Voting Banks"). The executed notice shall provide that the Voting Banks, by unanimous vote, have agreed to terminate this Agreement as of a specified date, which notice shall be delivered to the Funding Corporation not less than two (2) Business Days before the date specified in the notice for the termination of this Agreement;

(b) Upon the effective date of action by the FCA that withdraws FCA's approval of this Agreement;

(c) Upon the effective date of action by the FCA that amends the FCA's priority of claims regulations, including FCA regulations §§ 627.2750 and 627.2755, with respect to any payments made to holders of Insured Debt Obligations;

(d) Upon the effective date of any action by the Insurance Corporation that withdraws the Insurance Corporation's expression of no objection to this Agreement;

(e) Any part or provision of this Agreement has been deemed void or unenforceable by a court of competent jurisdiction pursuant to a final, nonappealable order; or

(f) Upon the effective date of action by the FCA that amends FCA regulation § 611.1270, with respect to making provision for joint and several liability payments subsequent to termination of System status.

Notwithstanding the foregoing, if the Banks and the Funding Corporation unanimously agree to continue this Agreement within five (5) Business Days of an event set forth in (b), (c), (d), (e), or (f) of this Section, this Agreement shall not terminate. After such unanimous agreement, the Banks and the Funding Corporation shall work in good faith to execute an amendment to this Agreement to accomplish its essential purposes notwithstanding the occurrence of the events specified in such subsections.

Section 7.02 Effect of Termination

In an event of termination under Section 7.01 hereto, (i) the transactions contemplated by this Agreement shall be terminated and abandoned without further action by the parties and no party shall have any further obligations hereunder to any other party except for those obligations that specifically survive termination, and (ii) with respect to any Insured Debt Obligation maturing after the Termination Date, the methodology for joint and several liability allocation shall revert to the Collateral Method. The termination of

this Agreement shall not in any way affect (a) any Allocation Payments made before the Termination Date, (b) the Banks' subrogation rights with respect to any such Allocation Payments made before the Termination Date, (c) the indemnification rights and obligations under Articles IV or VI, or (d) rights to arbitration under Article V for breaches of this Agreement that occur prior to termination.

Section 7.03 Severability

In the event the conservator or receiver, on behalf of a Bank in conservatorship or receivership, repudiates this Agreement, this Agreement shall remain effective as to the other Banks, except that strictly for purposes of Section 2.02(b) hereto, the Bank for which this Agreement has been repudiated shall be deemed to be an MPI Bank for purposes of calculating the MPI Adjustment, and any such Bank's Allocation Payment shall be zero pursuant to this Agreement. The repudiation of this Agreement shall not affect the rights of any party to pursue a claim for damages or other relief against a Bank in conservatorship or receivership that has repudiated this Agreement, if such claim either (i) arose under this Agreement prior to the appointment of a conservator or receiver, or (ii) did not arise under this Agreement.

Article VIII. Confidentiality

Section 8.01 Confidentiality

The parties may disclose this Agreement and any amendments to it and may also disclose any actions taken pursuant to this Agreement in order to effect funding of a Defaulted Maturing Obligation Allocation Amount. All other information relating to this Agreement shall be kept confidential and shall be used solely for purpose of this Agreement, except that, to the extent permitted by applicable law, such information may be disclosed (a) by any party in order to comply with legal or regulatory obligations, (b) under the Farm Credit System Disclosure Program, (c) by a party, as such party deems appropriate for purposes of such party's disclosures to borrowers, shareholders, creditors, investors, or rating agencies, or (d) by a party for purposes of disclosure to any other transacting party (subject to such a transacting party's agreement to keep the information confidential, to the extent such party can reasonably obtain such agreement) of material information relating to any party. Notwithstanding the preceding sentence, the parties shall make every reasonable effort, to the extent consistent with legal requirements, securities disclosure obligations and other business necessities, to preserve the confidentiality of information provided to any party and designated as "Proprietary and Confidential." Any expert or consultant retained in connection with this Agreement shall execute a written undertaking to preserve the confidentiality of any information received in connection with this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall prevent the parties from disclosing information to FCA or the Insurance Corporation.

Article IX. Miscellaneous

Section 9.01 Relation to Market Access Agreement

This Agreement and the Market Access Agreement are separate agreements, and invalidation or termination of one shall not affect the other.

Section 9.02 Relation to the Act

It is expressly agreed by the parties hereto that this Agreement shall be interpreted to be coextensive with the Act and the regulations and the obligations thereunder.

Section 9.03 Statutory Collateral Requirement

Nothing in this Agreement shall be construed to permit a Bank to participate in issuances of Insured Debt Obligations or other obligations if it does not satisfy the collateral requirements of Section 4.3(c) of the Act.

Section 9.04 Termination of System Status

Nothing in this Agreement shall be construed to preclude a Bank from terminating its status as a System institution pursuant to Section 7.10 of the Act, or from withdrawing, as from that time forward, the funding resolution it has adopted pursuant to Section 4.4(b) of the Act with respect to Insured Debt Obligations. Notwithstanding the foregoing, termination of System status does not terminate obligations under this Agreement. A Bank that terminates its status as a System institution shall remain liable for any obligations imposed pursuant to FCA regulation § 611.1270.

Section 9.05 Restrictions Concerning Subsequent Litigation

It is expressly agreed by the Banks that (a) characterization or categorization of Banks, (b) information furnished to the Banks, (c) discussions or decisions of the Banks or the Funding Corporation under this Agreement, (d) FCA's approval of this Agreement, and (e) the Insurance Corporation's expression of no objection, shall not be used in any subsequent litigation challenging FCA's or the Insurance Corporation's action or inaction.

Section 9.06 Headings

The section headings contained in this Agreement are for reference and convenience only, do not constitute a part of this Agreement, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

Section 9.07 Notices

All notices, requests, demands and other communications which are required or may be given pursuant to the terms of this Agreement (each a "Notice") by parties to the Agreement, including notice of a change of address, shall be (i) in writing, and (ii) sent by facsimile or other electronic transmission (and promptly confirmed by registered or certified mail or courier service, as provided herein); the confirmation of a facsimile or other electronic transmission may be sent by a reputable independent courier service appropriate to the circumstances, or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to a party at the applicable address set forth herein (or at such other address as a party may designate upon ten (10) days' prior written notice to the Banks, the Funding Corporation, FCA, and the Insurance Corporation). Any such communication shall be deemed to have been validly delivered and received effective on the earlier of (a) the date of transmission when sent by facsimile or other electronic transmission, or (b) the date of delivery when delivered by a reputable courier service maintaining records of receipt or by the applicable national postal service. Any such communication shall be addressed as follows:

To AgFirst Farm Credit Bank:

AgFirst Farm Credit Bank
Farm Credit Bank Building
1401 Hampton Street
Columbia, South Carolina 29201
Attention: President and Chief Executive Officer
Fax: 803–254–1776

To AgriBank, FCB:

AgriBank, FCB
375 Jackson Street
St. Paul, Minnesota 55101
Attention: President and Chief Executive Officer

Fax: 651–282–8511

To CoBank, ACB:

CoBank, ACB
5500 South Quebec Street
Greenwood Village, Colorado 80111
Attention: President and Chief Executive Officer
Fax: 303–740–4002

To the Farm Credit Bank of Texas:

Farm Credit Bank of Texas
4801 Plaza on the Lake Drive
Austin, Texas 78746
Attention: President and Chief Executive Officer
Fax: 512–465–0775

To U.S. AgBank, FCB:

U.S. AgBank, FCB
245 North Waco
Wichita, KS 67202
Attention: President and Chief Executive Officer
Fax: 316–266–5126

To Federal Farm Credit Banks Funding Corporation:

Federal Farm Credit Banks Funding Corporation
10 Exchange Place
Suite 1401
Jersey City, NJ 07302
Attention: President and Chief Executive Officer
Fax: 201–200–8109

To the Farm Credit System Insurance Corporation:

Farm Credit System Insurance Corporation
1501 Farm Credit Drive
McLean, VA 22102
Attention: Chairman
Fax: 703–790–9088

To the Farm Credit Administration:

Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102–5090
Attention: Chairman
Fax: 703–734–5784

or to such other address, facsimile number or individual as any Bank or the Funding Corporation, or any successor thereto, shall have designated.

Section 9.08 Cumulative Rights and No Waiver

Each and every right granted to a party hereunder, or allowed it by law or equity, shall be cumulative and may be exercised from time to time. No failure on the part of any party to exercise any right shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other exercise thereof or the exercise of any other right.

Section 9.09 Transfers and Assignments; Binding Agreement

This Agreement shall not be transferable or assignable by any party without the prior written consent of the other parties hereto, and any attempted transfer or assignment shall be void and of no effect, except no prior written consent of the other parties hereto shall be required for the merger or consolidation of one or more Banks. Except as otherwise expressly provided herein, the rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors, transferees and assigns of each of them, including entities resulting from the merger or consolidation of one or more Banks.

Section 9.10 Governing Law

This Agreement shall be governed by and construed in accordance with the Federal laws and regulations of the United States of America, and, to the extent of the absence of Federal law, in accordance with the laws of the State of New York, excluding any conflicts of law provisions that would cause the law of any jurisdiction other than New York to be applied; provided, however, that in the event of any conflict between the U.S. Arbitration Act and applicable Federal or New York law, the U.S. Arbitration Act shall control.

Section 9.11 Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute a single document.

Section 9.12 Amendments

This Agreement may be modified, supplemented or amended only by an agreement in writing executed by all of the parties hereto. In addition, the FCA must approve such modification, supplement or amendment and the Insurance Corporation must deliver an expression of no objection to such modification, supplement or amendment.

Section 9.13 Entire Agreement

This Agreement constitutes the entire agreement of the parties hereto with respect to its subject matter hereof, and supersedes any and all prior negotiations, correspondence, understandings and agreements among the parties or between two of the parties, oral or written, respecting the subject matter hereof.

Section 9.14 Time Is of The Essence

Time is of the essence in interpreting and performing this Agreement.

Dated: August 12, 2010.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 2010–20372 Filed 8–17–10; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2912]

PETITION FOR RECONSIDERATION OF ACTION IN RULEMAKING PROCEEDING

08/02/2010.

SUMMARY: A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW, Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to this petition must be filed by September 2, 2010. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244)

Telephone Number Portability (CC Docket No. 95–116)

NUMBER OF PETITIONS FILED: [1]

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–20408 Filed 8–17–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2913]

PETITION FOR RECONSIDERATION OF ACTION IN RULEMAKING PROCEEDING

Aug 10, 2010.

SUMMARY: Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW, Washington, DC or may be purchased from the Commission's

copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by September 2, 2010. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Improving Public Safety Communications in the 800 MHz Band (WT Docket 02–55)

New 800 MHz Band Plan for Puerto Rico and the U.S. Virgin Islands

NUMBER OF PETITIONS FILED: [3]

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–20409 Filed 8–17–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: August 9, 2010.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10276	Ravenswood Bank	Chicago	IL	8/6/2010

[FR Doc. 2010–20415 Filed 8–17–10; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 2, 2010.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. The Beach Immediate Family, consisting of Charles Beach, III, Beattyville, Kentucky; Charles Beach, IV, London, England; and Taylor Beach Moloney, Nashville, Tennessee; to acquire voting shares of Genbeach Company, Inc., and thereby indirectly acquire voting shares of Peoples Exchange Bank of Beattyville, Inc., both of Beattyville, Kentucky.

Board of Governors of the Federal Reserve System, August 13, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–20383 Filed 8–17–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011733–029.

Title: Common Ocean Carrier Platform Agreement.

Parties: A.P. Moller-Maersk A/S; American President Lines, Ltd., APL Co., PTE Ltd.; CMA CGM; Hamburg-Süd; Hapag-Lloyd AG; Mediterranean Shipping Company S.A.; and United Arab Shipping Company (S.A.G.) as shareholder parties, and Alianca Navegacao e Logistica Ltda.; China Shipping Container Lines Company Limited; Compania Sud Americana de Vapores, S.A.; Companhia Libra de Navegacao; COSCO Container Lines Co., Ltd.; Emirates Shipping Lines; Evergreen Line Joint Service Agreement; Gold Star Line, Ltd.; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mitsui O.S.K. lines Ltd.; Nippon Yusen Kaisha; Safmarine Container Lines N.V.; Norasia Container Lines Limited; Tasman Orient Line C.V. and Zim Integrated Shipping as non-shareholder parties.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment revises the agreement to reflect that majority interest in Inttra, Inc. has been sold to a non-carrier investor.

Dated: August 13, 2010.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–20479 Filed 8–17–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 283F.
Name: Saima Avandero USA, Inc.
Address: 550 Broad Street, Suite 1001, Newark, NJ 07102.
Date Revoked: July 29, 2010.
Reason: Failed to maintain a valid bond.

License Number: 0641F.
Name: Wilmoth Fast Forwarding, Inc.
Address: 13302 Michaelangelo Drive, Bakersfield, CA 93314.
Date Revoked: July 24, 2010.
Reason: Failed to maintain a valid bond.

License Number: 4002F.
Name: Ocean Trade International, Inc.
Address: 16517 SW. 52nd Street, Miami, FL 33185.
Date Revoked: July 22, 2010.
Reason: Failed to maintain a valid bond.

License Number: 000769NF.
Name: ABX Logistics (USA) Inc.
Address: 7651 Esters Blvd., Suite 210, Irving, TX 75063.
Date Revoked: July 29, 2010.
Reason: Failed to maintain valid bonds.

License Number: 14960N.
Name: Samyoung America, Inc. dba S.Y. Line.
Address: 1220 Broadway, Suite 700, New York, NY 10001.
Date Revoked: July 29, 2010.
Reason: Failed to maintain a valid bond.

License Number: 018613N.
Name: Caribbean Cargo & Package Services, Inc.
Address: 147–46 176th Street, Jamaica, NY 11434.
Date Revoked: March 4, 2010.
Reason: Failed to maintain a valid bond.

License Number: 018673N.
Name: Global Express Shipping and Delivery Company, Inc.
Address: 433 Red Oak Lane, Lawrenceville, GA 30045.
Date Revoked: July 29, 2010.
Reason: Failed to maintain a valid bond.

License Number: 020063N.
Name: Business Solutions Partner, Inc.
Address: 12493 Cliff Edge Drive, Herndon, VA 20170.
Date Revoked: July 31, 2010.
Reason: Failed to maintain a valid bond.

License Number: 020747N.
Name: Prime Logistics Int'l, Inc.
Address: 8611 NW. 72nd Street, Miami, FL 33166.
Date Revoked: July 25, 2010.
Reason: Failed to maintain a valid bond.

License Number: 020974F.
Name: Anthony Okafor dba TB Worldwide Shipping Services.
Address: 4740 Gretna Street, Dallas, TX 75207.
Date Revoked: July 17, 2010.
Reason: Failed to maintain a valid bond.

License Number: 021137NF.
Name: Fastrans Logistics, Inc.
Address: 7069 North Hanley Road, Hazelwood, MO 63042.
Date Revoked: July 28, 2010.
Reason: Failed to maintain valid bonds.

License Number: 022169F.
Name: Airland Logistics Inc.
Address: 11811 N. Freeway, Suite 547, Houston, TX 77060.
Date Revoked: July 29, 2010.
Reason: Failed to maintain a valid bond.

License Number: 021184NF.
Name: Hyde Ocean Services, Inc.
Address: 9595 Valparaiso Court, Indianapolis, IN 46268.
Date Revoked: July 29, 2010.
Reason: Failed to maintain valid bonds.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2010–20485 Filed 8–17–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 015465N.
Name: Patriot Forwarders, Inc. dba Airwave Express.
Address: 155 Diplomat Drive, Suite D, Columbia City, IN 46725.
Order Published: FR: 8/4/2010 (Volume 75, No. 149. 46939).

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2010–20480 Filed 8–17–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Advanced Shipping Corporation dba Star Cluster USA (NVO), 1908 E. Dominguez Street, Carson, CA 90810. Officers: Veronica V. Cairns, President, (Qualifying Individual), Serhat Dagtas, Vice President, Application Type: Trade Name Change and QI Change.

Ancora Shipping Line, LLC (NVO & OFF), 62 Villa Place Court, Tucker, GA 30084. Officer: Nils P. Marxen, Managing Director, (Qualifying Individual), Application Type: New NVO & OFF License.

Auto Export Shipping, Inc. dba A.E.S. Inc. (NVO), 1 Slater Drive, Elizabeth, NJ 07206. Officers: Ronald A. Pfeiffer, President, (Qualifying Individual), Application Type: Add Trade Name.

CLA Investment & Development, Inc. dba CLA Shipping, Inc., (NVO & OFF), 129 S. 8th Avenue, #C, La Puente, CA 91746. Officers: Hong Wang, Secretary/CFO, (Qualifying Individual), Anson Li, CEO, Application Type: New NVO & OFF License.

Dart Express (NYC) Inc. dba Dart Global Logistics (NVO), 147–60 175th Street, 2nd Floor, Jamaica, NY 11434. Officers: Ananda L. Jayasekara, COO/Managing Director, (Qualifying Individual), Charles Wijesundera, President/CEO, Application Type: Trade Name Change and QI Change.

EZ Cruise, Inc. (NVO & OFF), 1209–11 167th Street, Baltimore, MD 21237. Officers: Omar Akbar, President, (Qualifying Individual), Etiq Shukran, Secretary/Treasurer, Application Type: New NVO & OFF License.

Hawaii Intermodal Tank Transport, LLC (NVO & OFF), 2350 S. Dock Street, #D, Palmetto, FL 34221. Officer: Bahman Sadeghi, Managing Member, (Qualifying Individual), Application Type: New NVO & OFF License.

Juan C. Fernandez dba Mind Over Business (NVO), 2301 East Edgar Road, Bldg. #4, Linden, NJ 07036. Officer: Juan C. Fernandez, Sole Proprietor, (Qualifying Individual), Application Type: New NVO License.

Mercator Transport Houston Corporation (OFF), 10418 Sagerock Drive, Houston, TX 77089. Officers: Joseph Carrion, President, (Qualifying Individual), Denis Couroux, Director, Application Type: New OFF License.

Springfield Marine Limited (NVO), Pasea Estate, P.O. Box 958, Road Town, Tortola, BVI, United Kingdom. Officers: Georges Kriemadis, Vice President, Marine Operations, (Qualifying Individual), Laurence L. MacGowan, Director, Application Type: New NVO License.

Super Cargo International Services, Inc. (OFF), 5519 N.W. 72nd Avenue, Miami, FL 33166. Officers: Jorge L. Martinez, Director, (Qualifying Individual), Richardo E. Sanabria, President, Application Type: New OFF License.

Dated: August 13, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–20484 Filed 8–17–10; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License No.	Name/address	Date reissued
008904N	Port Jersey Shipping International Inc., 268 Seaview Avenue, Jersey City, NJ 07305.	July 1, 2010.
015941NF	Cargo Plus, Inc., 8333 Wessex Drive, Pennsauken, NJ 08109	June 23, 2010.
019408N	C & L, USA, Inc. dba C&L Freight Srvs., 20 Broadhollow Road, Suite 1005, Melville, NY 11747.	July 17, 2010.
020821NF	Gold Coast Shipping, LLC, 2964 Main Street, Hartford, CT 06120	June 11, 2010.
021246N	Around The World Shipping, Inc., 6726 Reseda Blvd., Suite A–10, Reseda, CA 91335.	July 7, 2010.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2010–20483 Filed 8–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

National Registry of Evidence-Based Programs and Practices (NREPP): Open Submission Period for Fiscal Year 2011

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Substance Abuse and Mental Health Services Administration's (SAMHSA's) mission is to reduce the impact of substance abuse and mental illness on America's communities. The Agency was established in 1992 and directed by Congress to target effective substance abuse and mental health services to the people most in need and to translate research in these areas more effectively and more rapidly into the general health care system. As part of this effort, SAMHSA has expanded and refined the agency's National Registry of Evidence-based Programs and Practices (NREPP). Two previous notices announcing these changes have been published in the **Federal Register** (70 FR 50381, Aug. 26, 2005; 71 FR 13133, March 14, 2006). Since 2006, SAMHSA has held three open submission periods during which interventions could be submitted for potential review and inclusion on the NREPP Web site (71 FR 37590, June 30, 2006; 72 FR 30814, June 4, 2007). This notice announces the open submission period for Federal Fiscal Year 2011, explains how submissions will be screened and selected, and provides guidance on the submission process for individuals and organizations seeking to have an intervention reviewed and listed on the NREPP Web site. Potential applicants should be aware that this notice includes new information relating to the eligibility of interventions and review process that supersedes guidance provided in earlier **Federal Register** notices.

FOR FURTHER INFORMATION CONTACT: Kevin D. Hennessy, Ph.D., Science to Service Coordinator/SAMHSA, 1 Choke Cherry Road, Room 7–1041, Rockville, MD 20857, telephone 240–276–2234.

Dated: August 6, 2010.

Pamela S. Hyde,

Administrator, SAMHSA.

Substance Abuse and Mental Health Services Administration's National Registry of Evidence-Based Programs and Practices (NREPP): Open Submission Period for Fiscal Year 2011

Background

The Substance Abuse and Mental Health Services Administration's (SAMHSA) National Registry of Evidence-based Programs and Practices (NREPP) is a voluntary rating system designed to provide the public with reliable information about interventions that promote mental health or prevent or treat mental illness, substance use disorders, or co-occurring disorders. Programs and practices that are accepted for inclusion in the registry undergo two independent review processes in which their (1) quality of research and (2) readiness for dissemination are evaluated and rated. The results of these reviews are published on the NREPP Web site (*http://nrepp.samhsa.gov*).

It should be noted that inclusion in NREPP does not constitute endorsement of an intervention by SAMHSA. Moreover, since NREPP has not reviewed all interventions, the use of

NREPP as an exclusive or exhaustive list of interventions is not appropriate. Policymakers and funders in particular are discouraged from limiting contracted providers and/or potential grantees to selecting only among NREPP interventions.

This notice announces the next open submission period during which SAMHSA will consider and accept new applications for review, describes the minimum requirements and other considerations that will be used in screening and selecting interventions, and provides guidance on the submission process.

Please note four changes from the previous submission period:

1. Submissions will be accepted from November 1, 2010, through February 1, 2011.

2. To remain consistent with SAMHSA's mission ("to reduce the impact of substance abuse and mental illness on American communities"), NREPP will not accept for review, or otherwise include on the NREPP Web site, any interventions that have been developed or evaluated with funds or other support—either partially or wholly—from organizations whose goals or activities are determined to be inconsistent with SAMHSA's mission.

3. Due to a combination of limited resources and a large number of previously accepted mental health submissions, only a small number of mental health promotion or mental health treatment interventions will be accepted for review by NREPP in FY 2011.

4. Because of limited resources for FY 2011, multiple submissions from the same developer—regardless of content area—will not be accepted.

Dates of Open Submission Period

SAMHSA has established a 3-month period for receipt of NREPP submissions for fiscal year 2011 that will begin November 1, 2010, and end February 1, 2011. Interventions submitted after February 1, 2011, will not be considered during this submission cycle. Program developers, researchers, and others interested in submitting an intervention should read this notice for information about current minimum requirements and examine the information provided on the NREPP Web site about the review process and review criteria (*http://nrepp.samhsa.gov/review.asp*). The selection of interventions will take place after the closing of the open submission period, and applicants will be informed of their acceptance status at that time. The number of reviews conducted will depend on the availability of funds, with the final selection of interventions and the timing of reviews to be determined at the discretion of SAMHSA.

In submitting an intervention, applicants understand that the results of NREPP reviews are considered public information and will be posted on the NIREPP Web site. Once a review is completed, the applicant will be provided with a summary document ("intervention summary") that presents ratings and descriptive information about the intervention. Applicants are encouraged to view examples of NREPP intervention summaries on the NREPP Web site to become familiar with the end product of the review process.

Minimum Requirements

To be considered for review, interventions must meet four minimum requirements:

1. The intervention has produced one or more positive behavioral outcomes (p~05) in mental health or substance use among individuals, communities, or populations.

2. Evidence of these outcomes has been demonstrated in at least one study using an experimental or quasi-experimental design. Experimental designs require random assignment, a control or comparison group, and pre- and post intervention assessments. Quasi-experimental designs do not require random assignment but do require a comparison or control group and pre- and post-intervention assessments; this category includes longitudinal/multiple time series designs with at least three preintervention or baseline measurements and at least three postintervention or follow-up measurements.

3. The results of these studies have been published in a peer-reviewed journal or other technical publication, or documented in a comprehensive evaluation report. Comprehensive evaluation reports must include a review of the literature, theoretical framework, purpose, methodology, findings/results, discussion, and conclusions. Submissions must include information that can be rated according to the six (6) Quality of Research criteria identified on the NREPP Web site.

4. Implementation materials, training and support resources, and quality assurance procedures have been developed and are ready for use by the public.

Applicants are required to provide documentation at the time of submission that demonstrates the intervention meets these minimum requirements. Table 1 lists examples of appropriate supporting documentation.

TABLE 1—DOCUMENTATION FOR DEMONSTRATING COMPLIANCE WITH MINIMUM REQUIREMENTS

Minimum requirement	Documentation
Quality of Research:	
1. Intervention has produced one or more positive behavioral outcomes (p ~05) in mental health or substance use among individuals, communities, or populations.	A list of significant behavioral outcomes that includes supporting citations (document/page number) for each outcome and
2. Evidence of these outcomes has been demonstrated in at least one study using an experimental or quasi-experimental design.	A full-text copy of each article/report cited in the list of outcomes. Other research articles, published or unpublished evaluation reports, grant final reports, and replication studies may be submitted as additional supporting documentation
3. Results of these studies have been published in a peer-reviewed journal or other publication or documented in a comprehensive evaluation report.	Note: Abstracts or URLs to partial articles are regarded as incomplete and will not be considered.
Readiness for Dissemination:	
4. Implementation materials, training and support resources, and quality assurance procedures have been developed and are ready for us by the public.	Brief narrative description and list of available materials, resources, and systems to support implementation (*e.g.,* treatment manuals, information for administrators, tested training curricula, mechanisms for ongoing supervision and consultation, protocols for gathering process and outcome data, ongoing monitoring of intervention fidelity, processes for gathering feedback).

The following types of interventions are not eligible for review and should not be submitted to NREPP:

1. Stand-alone pharmacologic treatments—The evidence base for pharmacologic treatments is reviewed and approved through the U.S. Food and Drug Administration (FDA). FDA-approved pharmacotherapy interventions (on-label use) are considered for NREPP review only when combined with one or more behavioral or psychosocial treatments.

2. Stand-alone smoking prevention and/or cessation interventions—Interventions to prevent or reduce tobacco use are eligible for NREPP review only when conducted as part of a program that also addresses the prevention or treatment of alcohol or other drugs of abuse.

3. To remain consistent with SAMHSA's mission ("to reduce the impact of substance abuse and mental illness on American communities"), NREPP will not accept for review, or otherwise include on the NREPP Web site, any interventions that have been developed or evaluated with funds or other support-either partially or wholly-from organizations whose goals or activities are determined to be inconsistent with SAMHSA's mission.

4. Due to a combination of limited resources and a large number of previously accepted mental health submissions, only a small number of mental health promotion or mental health treatment interventions will be accepted for review by NREPP in FY 2011.

5. Because of limited resources for FY 2011, multiple submissions from the same developer-regardless of content area-will not be accepted.

Selection of Interventions for Review

All submissions meeting the minimum requirements will be considered eligible for review. In selecting interventions for review, SAMHSA may choose to give special consideration to interventions that meet one or more of the following conditions:

- The original investigator(s) or an independent party has used the same protocol with an identical or similar target population, and/or has used a slightly modified protocol based on a slightly modified population, where results are consistent with positive findings from the original evaluation.
- Implementation materials (*e.g.,* program manuals, training guides, measurement instruments, implementation fidelity guides) are available to the public at no cost.
- The intervention targets underserved populations (*e.g.,* minority populations, elderly, young adults, individuals who are incarcerated).
- The intervention contributes to a content area where there are currently limited evidence-based interventions.

Interventions that are not selected for review may be resubmitted by the applicant in a future open submission period.

Instructions for Submitting an Intervention

To submit an intervention, individuals should send a written statement to NREPP expressing their interest along with documentation that demonstrates the intervention meets the minimum requirements as described above. All submissions must be made either by a principal investigator (PI) who has conducted research on the intervention, a a project director (PD) who has worked with an evaluator of the intervention, or a formally authorized delegate of the PI or PD. For information on where to submit materials, please call 1–866–436–7377. Electronic submissions are preferred, but materials may be sent to NREPP in hard copy via postal mail or fax. To be eligible for consideration, submissions must be received no later than 11:59 p.m. EST on February 1, 2011; those received before November 1, 2010, will be disregarded.

If an intervention is accepted, the PI will be contacted and asked to submit additional documentation to be used in the review. This additional documentation includes full-text copies of all articles and reports that provide evidence of significant outcomes (p ~05) as well as copies of selected dissemination materials in the format they are provided to the public (*e.g.,* hard copies or electronic versions of manuals, training presentations, tools, quality assurance protocols; URLs for interactive Web-based resources).

The PI is expected to serve as the main point of contact throughout the remainder of the review process, including approval of the final intervention summary that is developed by NREPP staff once the review has been completed.

Contact Information

Individuals who have questions about the information contained in this notice may write to NREPP staff at *nrepp@samhsa.hhs.gov* or call 1–866–436–7377.

[FR Doc. 2010–20016 Filed 8–17–10; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0422]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information From United States Processors That Export to the European Community

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements in implementing the lists of U.S. firms/processors exporting shell eggs, dairy products, game meat, game meat products, animal casings, gelatin, and collagen to the European Community (the EC).

DATES: Submit either electronic or written comments on the collection of information by October 18, 2010.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide

information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Information From U.S. Processors That Export to the European Community (OMB Control Number 0910–0320)—Extension

The EC is a group of 27 European countries that have agreed to harmonize their commodity requirements to facilitate commerce among member States. EC legislation for intra-EC trade has been extended to trade with non-EC countries, including the United States. For certain food products, including those listed in this document, EC legislation requires assurances from the responsible authority of the country of origin that the processor of the food is in compliance with applicable regulatory requirements.

FDA requests information from processors that export certain animal-derived products (e.g., shell eggs, dairy products, game meat, game meat products, animal casings, and gelatin) to the EC. FDA uses the information to maintain lists of processors that have demonstrated current compliance with U.S. requirements and provides the lists to the EC quarterly. Inclusion on the list is voluntary. EC member countries refer to the lists at ports of entry to verify that products offered for importation to the EC from the United States are from processors that meet U.S. regulatory requirements. Products processed by firms not on the lists are subject to detention and possible refusal at the port. FDA requests the following information from each processor seeking to be included on the lists:

- Business name and address;
- Name and telephone number of person designated as business contact;
- Lists of products presently being shipped to the EC and those intended to be shipped in the next 6 months;
- Name and address of manufacturing plants for each product; and
- Names and affiliations of any Federal, State, or local governmental agencies that inspect the plant, government-assigned plant identifier such as plant number, and last date of inspection.

Description of Respondents: The respondents to this collection of information include U.S. producers of shell eggs, dairy products, game meat, game meat products, animal casings, gelatin, and collagen.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Products	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Shell Eggs	10	1	10	0.25	3
Dairy	120	1	120	0.25	30
Game Meat and Game Meat Products	5	1	5	0.25	1
Animal Casings	5	1	5	0.25	1
Gelatin	3	1	3	0.25	1
Collagen	3	1	3	0.25	1
Total					37

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimates of the number of respondents and total annual responses on the submissions that the agency has received in the past 3 years for each product type. To calculate the estimate for the hours per response values, we assumed that the information requested is readily available to the submitter. We expect that submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for submission. We believe that this effort should take no longer than 15 minutes (0.25 hour) per response. FDA estimates that it will receive 1 submission from 10 shell egg producers annually, for a total of 10 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 2.5 hours, rounded to 3 hours. FDA estimates that it will receive 1 submission from 120 dairy product producers annually, for a total of 120 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 30 hours. FDA estimates that it will receive 1 submission from 5 game meat and game meat product producers annually, for a total of 5 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 1.25 hours, rounded to 1 hour. FDA estimates that it will receive 1 submission from 5 animal casings producers annually, for a total of 5 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 1.25 hours, rounded to 1 hour. FDA estimates that it will receive 1 submission from 3 gelatin producers annually, for a total of 3 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 0.75 hour, rounded to 1 hour. FDA estimates that it will receive 1 submission from 3 collagen producers annually, for a total of 3 annual

responses. Each submission is estimated to take 0.25 hour per response for a total of 0.75 hour, rounded to 1 hour.

Therefore, the proposed annual burden for this information collection is 37 hours.

Dated: August 12, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–20379 Filed 8–17–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0139]

Seth M. Yoser: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) (the Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Seth M. Yoser, MD from providing services in any capacity to a person that has an approved or pending drug product application. We base this order on a finding that Dr. Yoser was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act. Dr. Yoser was given notice of the proposed permanent debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. In a May 20, 2010, letter to FDA, Dr. Yoser, through counsel, notified FDA that he acquiesces to debarment and therefore he has waived his right to a hearing concerning this action.

DATES: This order is effective May 20, 2010.

ADDRESSES: Submit applications for special termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6844.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual if FDA finds that the individual has been convicted of a felony under Federal law for conduct otherwise relating to the regulation of any drug product under the act.

On February 23, 2010, the U.S. District Court for the Western District of Tennessee entered judgment against Dr. Yoser for ten counts of mail fraud in violation of 21 U.S.C. 1341, twenty-three counts of unlicensed wholesale distribution of prescription drugs in violation of 21 U.S.C. 331(t), 333(b)(1)(D), and 353(e)(2)(A); and two counts of wire fraud in violation of 18 U.S.C. 1343.

FDA's finding that debarment is appropriate is based on the felony convictions referenced herein for conduct relating to the regulation of a drug product. The factual basis for those convictions is as follows: Dr. Yoser was employed by the Eye Specialty Group (ESG), formerly known as the Vitreorentinal Foundation, and he was a partner of ESG from on or about June 2005, until approximately May 12, 2008. During the course of his employment and partnership with ESG, he performed treatments which included administering the prescription drugs Visudyne, Lucentis, and Avastin to treat Wet Aged Macular Degeneration.

Beginning on or about July 1, 2002, and continuing up to and including May 12, 2008, Dr. Yoser did knowingly devise a scheme and artifice to defraud ESG and Medicare in order to obtain money and property by means of false and fraudulent representation, billing, and pretense. As part of that scheme, he billed Medicare for Visudyne, Avastin, and Lucentis that he purportedly used to treat ESG patients but that he actually diverted from ESG patients and sold.

Beginning on or about April 14, 2004, through on or about October 2, 2007, in the Western District of Tennessee, and elsewhere, Dr. Yoser did knowingly engage in or cause the wholesale distribution in interstate commerce of the prescription drugs, Visudyne and Lucentis in Louisiana, Tennessee, Texas, and Arkansas without being licensed by those states in violation of 21 U.S.C. 331(t), 333(b)(1)(D), and 353(e)(2)(A).

As a result of his convictions, on April 19, 2010, FDA sent Dr. Yoser a notice by certified mail proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the act, that Dr. Yoser was convicted of felonies under Federal law for conduct relating to the regulation of a drug product under the act. The proposal also offered Dr. Yoser an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Dr. Yoser's attorney filed a May 20, 2010, response in which he stated that Dr. Yoser did not object to debarment and further clarified in writing that the May 20, 2010, letter intended to express Dr. Yoser's acquiescence to debarment. By acquiescing to debarment, as provided for in section 306(c)(2)(B) of the act, Dr. Yoser waived his opportunity for a hearing and any contentions concerning his debarment.

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(a)(2)(B) of the act, under authority delegated to the Acting Director (Staff Manual Guide 1410.35), finds that Seth M. Yoser has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act.

As a result of the foregoing finding and based on his notification of acquiescence, Dr. Yoser is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 512, or 802 of the act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective May 20, 2010, the date of the notification of acquiesce (see **DATES**) (see sections 306(c)(1)(B), (c)(2)(A)(ii), (c)(2)(B), and 201(dd) of the act (21 U.S.C. 335a(c)(1)(B), (c)(2)(A)(ii), (c)(2)(B), and 321(dd))). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Dr. Yoser, in any capacity during Dr. Yoser's debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Dr. Yoser provides services in any capacity to a person with an approved or pending drug product application during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Yoser during his period of debarment (section 306(c)(1)(B) of the act).

Any application by Dr. Yoser for special termination of debarment under section 306(d)(4) of the act should be

identified with Docket No. FDA–2010–N–0139 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 2010.

Howard R. Sklamberg,

Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2010–20418 Filed 8–17–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2006–P–0386]

Determination That DIASTAT (Diazepam Rectal Gel), 5 Milligrams/Milliliter, 10 Milligrams/2 Milliliter, 15 Milligrams/3 Milliliter, and 20 Milligrams/4 Milliliter, Was 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 DIASTAT (diazepam rectal gel) (DIASTAT), 5 milligrams (mg)/milliliter (mL), 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for diazepam rectal gel, 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Nikki Mueller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6312, 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 sponsors 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 typically a version of the drug that was previously approved. Sponsors of ANDAs 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 removed from the list if the agency withdraws or suspends approval of the drug's NDA 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.

Lachman Consultant Services, Inc., submitted to FDA a citizen petition dated May 15, 2006 (Docket No. FDA–2006–P–0386),[1] under 21 CFR 10.30 requesting that the agency determine whether DIASTAT (diazepam rectal gel), 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, was withdrawn from sale for reasons of safety or effectiveness. DIASTAT (diazepam rectal gel) is the subject of approved NDA 20–648 held by Valeant Pharmaceuticals International (Valeant) (formerly held by Xcel Pharmaceuticals). DIASTAT (diazepam rectal gel) is an anticonvulsant agent indicated for use in the management of selected, refractory patients with epilepsy, on stable regimens of antiepileptic drugs, who require intermittent use of diazepam to control bouts of increased seizure activity.

DIASTAT (diazepam rectal gel) was approved on July 29, 1997 (NDA 20–648). On September 15, 2005, FDA approved a supplement (NDA 20–648/S–008) for a new delivery system of DIASTAT (diazepam rectal gel), marketed under the trade name DIASTAT ACUDIAL. Following approval of DIASTAT ACUDIAL, Valeant discontinued marketing DIASTAT (diazepam rectal gel) (NDA 20–648) in the 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL strengths, and those strengths of the product were moved to the "Discontinued Drug Product List" section of the Orange Book. We note that the original DIASTAT (diazepam rectal gel) and DIASTAT ACUDIAL that replaced the original DIASTAT delivery system contain the same diazepam gel formulation. Thus, the original diazepam gel formulation is still being marketed, but in a different delivery system.

After considering the citizen petitions, other information submitted to the docket, and reviewing our records, FDA has determined that DIASTAT (diazepam rectal gel), 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, was not withdrawn from sale for reasons of safety or effectiveness. FDA has independently evaluated relevant literature and data for possible postmarketing adverse events and has found no information that would indicate that DIASTAT (diazepam rectal gel), 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, was withdrawn from sale for reasons of safety or effectiveness. Issues regarding the appropriateness of permitting ANDAs referencing the discontinued DIASTAT (diazepam rectal gel) to be marketed at the same time as DIASTAT ACUDIAL are being addressed in a separate docket (FDA–2006–P–0009).

Accordingly, the agency will continue to list DIASTAT (diazepam rectal gel), 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, 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 DIASTAT (diazepam rectal gel), 5 mg/mL, 10 mg/2 mL, 15 mg/3 mL, and 20 mg/4 mL, may be approved by the agency if all other legal and regulatory requirements for the approval of ANDAs are met. If FDA determines that labeling for this drug product should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

[1] This citizen petition was originally assigned docket number 2006P–0209. The number changed to FDA–2006–P–0386 as a result of FDA's transition to its new docketing system (Regulations.gov) in January 2008.

Dated: August 12, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010–20327 Filed 8–17–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Committee on Rural Health and Human Services; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the following committee will convene its sixty-sixth meeting.

Name: National Advisory Committee on Rural Health and Human Services.

Dates and Times:

September 15, 2010, 8:45 a.m.–5 p.m.
September 16, 2010, 8:45 a.m.–4 p.m.
September 17, 2010, 8:45 a.m.–11:15 a.m.

Place: Ox Yoke Inn, 4420 220th Trail, Amana, Iowa 52203. *Phone:* 319–622–3441.

Status: The meeting will be open to the public.

Purpose: The National Advisory Committee on Rural Health and Human Services provides advice and recommendations to the Secretary with respect to the delivery, research, development, and administration of health and human services in rural areas.

Agenda: Wednesday morning, at 8:45 a.m., the meeting will be called to order by the Chairperson of the Committee, the Honorable Ronnie Musgrove. The first two presentations will be overviews of rural Iowa and the Iowa State Office of Rural Health. The remainder of the day the Committee will hear presentations on the three chosen Subcommittee topics. The first panel will focus on Childhood Obesity in Rural Communities. The second panel is Quality Implications of the Affordable Care Act. The final panel of the day is Rural Early Childhood Development Place-Based Initiatives. After the panel discussions, the Committee Chair will give an overview of the site visits. This will be followed by a call for public comment. The Monday meeting will close at 5 p.m.

Thursday morning, at 8:45 a.m., Tom Morris, Associate Administrator for Rural Health Policy, will provide a Departmental Update. At 9:15 a.m., the Committee will break into Subcommittees and depart to the site visits. The Childhood Obesity Subcommittee will visit Kids Corner in Tama County, IA and the Rural Early Childhood Development Place-Based Initiatives Subcommittee will visit the Pick A Better Snack Program at Walterboro Elementary in Walterboro, IA. The Quality Implications of the Affordable Care Act Subcommittee will visit a rural hospital, Grinnell Regional Medical Center. The Subcommittees will return to the Ox Yoke Inn in Amana at 3:30 p.m. Transportation to the site visits will not be provided to the public. The Tuesday meeting will close at 4 p.m.

The final session will be convened on Friday morning at 8:45 a.m. The meeting will open with a review of the Subcommittee site visits. The Chair of the Committee will lead a Working Session to discuss development of the Report to the Secretary. The Committee will draft a letter to the Secretary and discuss the February 2011 meeting. The meeting will be adjourned at 11:15 a.m.

For Further Information Contact: Thomas Morris, MPA, Executive Secretary, National Advisory Committee on Rural Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 10B–45, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Jennifer Chang at the Office of Rural Health Policy (ORHP) via Telephone at (301) 443–0835 or by e-mail at *jchang@hrsa.gov.* The Committee meeting agenda will be posted on ORHP's Web site *http://www.ruralhealth.hrsa.gov.*

Dated: August 12, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–20424 Filed 8–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Pregnancy, Neonatology, and Nutrition.

Date: September 7–8, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–408–9901, *sheardn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Diabetes and Endocrinology.

Date: September 13, 2010.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Knecht, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Social Sciences and Population Studies.

Date: September 22, 2010.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Denise Wiesch, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Brain Injury and Neurovascular Pathologies Study Section.

Date: September 27–28, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Alexander Yakovlev, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 11, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20423 Filed 8–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Mechanisms of Longevity in Rodents.

Date: August 31, 2010.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elaine Lewis, PhD, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7707. *elainelewis@nia.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Aging and the Immune System.

Date: September 9, 2010.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, PhD, Scientific Review Officer, National Institute On Aging, Gateway Building Rm. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7703. *ferrellrj@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Dopaminergic Dysfunction in Aging.

Date: September 14, 2010.

Time: 2:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander Parsadanian, PhD, Scientific Review Officer, National Institute On Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–496–9666. *parsadaniana@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Aging and Immunology.

Date: October 21, 2010.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Branch, National Institute On Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892. 301–496–9666. *markowsa@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Mechanisms of Osteoporosis.

Date: November 2, 2010.

Time: 12:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander Parsadanian, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–496–9666. *parsadaniana@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 12, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20422 Filed 8–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Muscle Biology.

Date: September 8, 2010.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yi-Hsin Liu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 10–073: Technology Development for High-Throughput Structural Biology Research Review.

Date: September 14–15, 2010.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raymond Jacobson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; Development—1 Study Section.

Date: September 30–October 1, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marina del Rey Marriott, 4100 Admiralty Way, Marina del Rey, CA 90292.

Contact Person: Cathy Wedeen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–435–1191, *wedeenc@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 9, 2010.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20420 Filed 8–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Clinical and Preventive Services Maternal and Child Health Program: Project Choices Pilot Implementation and Evaluation Program for American Indian and Alaska Native Women

Announcement Type: New Limited Competition.

Funding Announcement Number: [HHS–2010–IHS–MHCEP–0001].

Catalog of Federal Domestic Assistance Number: 93.231.

Key Dates

Letter of Intent Deadline: August 26, 2010.

Application Deadline Date: September 15, 2010.

Review Date: September 17, 2010.

Earliest Anticipated Start Date: September 30, 2010.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting competitive cooperative agreement (CA) applications for Project CHOICES Pilot Implementation and Evaluation for American Indian and Alaska Native Women (CHOICES AI/AN) . This program is authorized under: Section 301(a) of the Public Health Service Act as amended and the Snyder Act, 25 U.S.C. 1653(c), the Indian Health Care Improvement Act Public Law 94–437, as amended by Public Law 102–573 and Public Law 111–148. This program is described in the Catalog of Federal Domestic Assistance under 93.231.

Background

Alcohol use during pregnancy is an important public health concern with objectives for reducing this behavior in Healthy People 2010 [U.S. Department of Health and Human Services. Healthy People 2010. 2nd Edition. Understanding and Improving Health. Vol 1. Washington, DC: U.S. Government Printing Office, November 2000]. The 2005 U.S. Surgeon General's advisory on alcohol use in pregnancy advises women who are pregnant or considering becoming pregnant to abstain from using alcohol. Prenatal alcohol exposure can lead to a spectrum of adverse consequences for the fetus including poor birth outcomes and low birth weight. This wide range of effects is known as Fetal Alcohol Spectrum Disorders (FASD) with Fetal Alcohol Syndrome (FAS) representing the most severe condition. Children with FAS have facial abnormalities, pronounced neuro-developmental disorders, and growth deficits. The lifetime cost for one individual with FAS in 2001 was estimated to be $2 million. This is an average for people with FAS and does not include data on people with other FASDs.

Prenatal alcohol use is a leading preventable cause of birth defects and developmental disabilities in the U.S. The Centers for Disease Control and Prevention (CDC) Morbidity and Mortality Weekly Report (MMWR) dated May 2009 cites studies showing that 0.2 to 1.5 cases of fetal alcohol syndrome (FAS) occur for every 1,000 live births in certain areas of the United States. Other studies using different methods have estimated the rate of FAS at 0.5 to 2.0 cases per 1,000 live births. CDC studies find that approximately 1 in 2 childbearing-aged women report past-month alcohol use, with 1 in 8 reporting binge drinking. This figure has remained stable over a 15 year period. (The National Institute on Alcoholism and Alcohol Abuse currently defines binge drinking in women as 4 drinks or more per occasion). The Behavioral Risk Factor Surveillance System (BRFSS) 2008 state-specific weighted prevalence estimates of alcohol use among women aged 18–44 years for any use defined as one or more drinks during the last 30 days ranged from 20.4% in Utah to 68.4% in Wisconsin. For binge drinking defined as 4 or more drinks on any one occasion during the last 30 days the prevalence estimates ranged from 6.5% in Utah to 23.9% in Wisconsin.

Reported prevalence rates of FAS among American Indians and Alaska Natives (AI/AN) tend to be higher than U.S. prevalence rates of FAS overall. CDC studies have reported rates among Alaska Natives to be 3.0–5.2 per 1,000 live births. A study of FAS prevalence rates in Alaska, Arizona, Colorado, and New York for years 1995–1997 reported similar findings in Alaska Natives with a rate of 5.86 per 1,000 live births and 0.3 in non-Native populations.

Most women reduce alcohol consumption once they learn they are pregnant. However, many of the women who use alcohol and are sexually active but not using contraception will become pregnant. Furthermore, they do not recognize pregnancy until well into the first trimester after fetal organs have already been damaged by prenatal alcohol exposure. Many of the women who are using contraception are using it ineffectively increasing the risk for an alcohol-exposed pregnancy (AEP). For pregnant women 12.2% (about 1 in 8) reported any alcohol use in the past 30 days.

In January 2003, the CDC published the results of a feasibility study (Project CHOICES) intended to design and test a brief motivational intervention for reducing alcohol-exposed pregnancies among women who are at high risk for such pregnancies. CDC collaborated with three universities in the development of the study with each site identifying community-based settings with high proportions of women at risk for AEP. Six special study settings confirmed to have a high proportion of women at risk for an AEP included jails, alcohol and drug treatment centers, an inner-city obstetrics and gynecology clinic at a university-based hospital, publicly supported primary clinics in Virginia (urban) and Florida (suburban), and a media-recruited cohort of women. High risk women were defined as 18–44 years of age, fertile, sexually active and not using effective contraception, and drinking more than 7 drinks per week and/or 5 drinks per occasion in the past month. Each woman was provided with a 4-session motivation counseling intervention and a family planning consultation and services visit in a pilot study to test the feasibility of the intervention. At 6 months follow-up, 69% of women had reduced their risk for an AEP by either decreasing their drinking levels and/or instituting effective contraception. [Project CHOICES Research Group. Alcohol-exposed pregnancy: characteristics associated with risk. Am J Prev Med 2002:23:166–73.] This study was followed up by a randomized controlled trial to test the efficacy of the intervention using the same protocol developed for the feasibility study. [Floyd RL, Sobell M, Velasquez MM, et al. Preventing Alcohol-Exposed Pregnancies: A Randomized Controlled Trial. Am J Prev Med. 2007;32(1):1–10] The results of the clinical trial found that the odds of reducing risk for an AEP among women receiving an intervention were twice that of women in the control group. Currently, CHOICES is being implemented in a number of public health settings including alcohol and drug treatment centers, sexually transmitted disease (STD) clinics, and community health clinics.

Purpose

The IHS seeks to support and educate AI/AN women of child bearing years in making healthy choices while enhancing their use of effective contraceptive practices. The purpose of this limited competition announcement is to implement and evaluate the

CHOICES core intervention model with AI/AN women who meet high-risk criteria for an AEP. It has been determined that the CHOICES model as demonstrated in published studies has relevance for AI/AN communities. The IHS will fund one project as a cooperative agreement. The three year pilot will serve to determine the utility and suitability of the CHOICES model by tailoring it to the needs of AI/AN women across three settings in Native communities. The primary intervention is a brief intervention using motivational counseling techniques and family planning consultation and services in clinical and community based settings. The funded project will evaluate and further refine CDC-developed client materials intended for an AI/AN audience. This will be accomplished utilizing broad community-based oversight.

The CDC will provide technical assistance (TA) to the funded project for the training and support of health care providers who implement the evidenced-based CHOICES intervention in AI/AN communities. The CDC and IHS will provide TA to the overall evaluation plan and its implementation in the funded settings. TA will help define process measures as CHOICES is implemented in the three sites to better understand feasibility for future public health planning in AI/AN communities. A final report of the results of the intervention delivery experience will be compiled for a final report due at the end of the funding period. This report will include outcomes and lessons learned with recommendations regarding future dissemination activities for Tribes, regional stakeholders, CDC and IHS. Substantive TA will be provided by the IHS and CDC working in collaboration. See Programmatic Involvement below.

For funding, the CHOICES AI/AN project must address the following:

1. Provide state and local data demonstrating high proportions of AI/AN women of reproductive years at high risk for an AEP.

2. Describe the process for tailoring the CHOICES intervention to ensure it is culturally relevant and appropriate for women at high risk for an AEP in selected AI/AN settings.

3. Describe how local resource capacity needed to conduct the CHOICES intervention will be assessed.

4. Demonstrate knowledge of the CHOICES program and methods to ensure fidelity in the delivery of the intervention.

5. Demonstrate knowledge of the CHOICES training of providers as it is currently modeled and ability to facilitate and host training with CDC providing the trainer.

6. Demonstrate familiarity with the CHOICES client materials used during the identification and intervention or counseling phase.

7. Develop marketing initiatives for the AI/AN and IHS stakeholders that describe the intervention and its benefits to providers caring for childbearing-aged women, culturally appropriate fact sheets and promotional materials, and estimates of the resources needed to manage the intervention.

8. Describe motivational counseling as it is applied in the CHOICES model.

9. Facilitate the development and activities of a collaborative group consisting of three selected sites to provide mutual support and feedback as they implement CHOICES.

10. Facilitate selected sites as they adapt the CHOICES materials for AI/AN populations describing approaches that address social and cultural aspects and a community oversight process.

11. Demonstrate ability to develop an evaluation plan and to conduct a program evaluation using process, impact and outcome measures.

12. Demonstrate experience with cooperative agreements and collaborative work including substantive TA.

13. Describe ability to report aggregate findings from the three site(s) on core measures, and how the use of training support and client materials developed by the project could enhance public health FASD prevention work in other AI/AN communities.

14. Identify additional potential funding to sustain the agencies/tribal entities that implement the intervention.

II. Award Information

Type of Awards

Cooperative Agreement (CA).

Estimated Funds Available

The total amount of funding identified for the current fiscal year FY 2010 is approximately $200,000. Competing and continuation awards issued under this announcement are subject to the availability of funds. In the absence of funding, the agency is under no obligation to make awards funded under this announcement.

Anticipated Number of Awards

One award will be issued under this program announcement.

Project Period

Three years.

Programmatic Involvement

Substantive programmatic involvement will be provided under this CA. The IHS Maternal and Child Health (MCH) Coordinator or designee will serve as the project officer for the project. The MCH program will provide oversight and TA in the implementation and evaluation activities. The MCH program will track project achievements through participation on conference calls, development of a listserv, review of agendas, minutes, and through the conduct of site visits annually. The MCH program will provide assistance in the development of a national dissemination plan. The CDC National Center on Birth Defects and Developmental Disabilities (NCBDD) will be consulted in use and provision of the generic training materials; in the conduct of training sessions by skilled professionals; and in overall project delivery and evaluation. NCBDD will make available the CHOICES Intervention package of materials for tailoring to the needs of AI/AN women as appropriate.

III. Eligibility Information

1. Eligibility

Applicant must be one of the following: A Federally-recognized Indian Tribe as defined by 25 U.S.C. 1603(d); A Tribal organization as defined by 25 U.S.C. 1603(e); or an Urban Indian organization as defined by the Public Law 94–437, the Indian Healthcare Improvement Act (IHCIA), as amended, Title V urban health organization.

This is a limited competition.

Definitions

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 *et seq.*], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. 25 U.S.C. 1603(d).

Tribal organization means the elected governing body or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities. 25 U.S.C. 1603(e).

Urban Indian organization means a non-profit corporate body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities. 25 U.S.C. 1603(h).

The applicant must include the project and a justified and itemized budget narrative as attachments to the application package. All Mandatory documents as noted under section IV.2. must be provided.

2. Cost Sharing or Matching

The Program does not require matching funds or cost sharing.

3. Other Requirements

If application budgets exceed the stated dollar amount that is outlined within this announcement it will not be considered for funding.

A letter of intent is required.

The following documentation is required:

Tribal Resolution—A resolution of the Indian Tribe served by the project must accompany the application submission. This can be attached to the electronic application. An Indian Tribe that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities. Draft resolutions are acceptable in lieu of an official resolution. However, an official signed Tribal resolution must be received by the Division of Grants Management (DGM) prior to the beginning of the Objective Review. If an official signed resolution is not received by September 17, 2010, the application will be considered incomplete, ineligible for review, and returned to the applicant without further consideration. Applicants submitting additional documentation after the initial application submission are required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.* FedEx tracking, postal return receipt, etc.).

Nonprofit urban IHS organizations must submit a copy of the 501(c)(3) Certificate as proof of non-profit status.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and instructions may be located at *http://www.Grants.gov* or *http://www.ihs.gov/NonMedicalPrograms/gogp/index.cfm?module=gogp_funding.*

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package.

Mandatory documents for all applicants include:

- Application forms:
  - SF–424.
  - SF–424A.
  - SF–424B.
- Budget Narrative (must be single spaced).
- Project Narrative (must not exceed 10 pages).
- Font size: 12 point unreduced.
- Single spaced.
- 8 ½″ x 11″ paper.
- Page margin size: One inch.
- Tribal Resolution or Tribal Letter of Support (Tribal Organizations only).
- Letter of Support from Organization's Board of Directors (Title V Urban Indian Health Programs only).
- 501(c) (3) Certificate (Title V Urban Indian Health Programs only).
- Biographical sketches for all Key Personnel.
- Disclosure of Lobbying Activities (SF–LLL) (if applicable).
- Documentation of current OMB A–133 required Financial Audit, if applicable. Acceptable forms of documentation include:
  - E-mail confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/fac/dissem/accessoptions.html?submit=Retrieve+Records.*

Public Policy Requirements:

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate MS Word document that is no longer than 10 pages (see page limitations for each Part noted below) with consecutively numbered pages. Be sure to place all responses and required information in the correct section or they will not be considered or scored. If the narrative exceeds the page limit, only the first 10 pages will be reviewed. There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (3 Page Limitation)

Section 1: Needs and Current Activities

Describe the population to be served including risk characteristics for an AEP. Describe the current public health programming, clinical and community services, and settings as applicable to the population to be served. Describe their ability to participate in implementing CHOICES. Describe prior experience and past achievements in addressing women and risky drinking. Describe knowledge and experience with CHOICES programming and materials.

Section 2: Organizational Capacity

Describe organizational capacity to conduct and evaluate an intervention.

Describe ability to manage and utilize technical assistance under a cooperative agreement. Describe key personnel and their specific experience in public health interventions designed to reduce alcohol exposed pregnancies. Describe experience in producing and facilitating training sessions. Describe experience in working with advisory groups. Describe ability to review and adapt training materials for an AI/AN audience. Describe experience and ability to develop comprehensive reports including the interpretation of process, impact and outcome measures.

Part B: Program Planning and Evaluation (6 Page Limitation)

Section 1: Program Plans

This is a pilot project and as such should be designed to address feasible approaches to the implementation of CHOICES in at least three clinical and community settings that serve AI/AN women of child bearing years. Urban and Tribal settings should be included. Program plans should address culturally specific approaches. Include support structures for facilitation and oversight of the implementation and evaluation. A three-year timeline with emphasis on year one should be described. A time line may be separately appended. Plan should include accountabilities for project monitoring, training schedule(s), materials review and revision if necessary, and the implementation plan for roll out at each site in year one of this three year project.

Section 2: Program Evaluation

Applicants will need to demonstrate their ability to evaluate this program as described in the literature, reporting and aggregating the findings from their pilot site(s) on a variety of measures over time. Measures should include a 6 month follow-up of women assessing reduced risk for an AEP by either decreasing their drinking levels and/or instituting effective contraception.

Part C: Program Report (1 Page Limitation)

Section 1: Reporting Capabilities

Describe reporting capacity and experience. Describe the reports, accompanying materials and exhibits that would be anticipated during the first year of the CHOICES pilot and throughout the project period. Append examples. Include description of training and client materials relevant to urban Indian and tribal settings and potential barriers to their development. Describe how all materials will be made available for local use in hard-copy as well as electronic. Applicant must describe how this project could be expanded nationally.

Section 2: Prior Accomplishments

Describe major activities and lessons learned over the past 12 to 24 months related to reducing AEP. Describe goals and key objectives achieved.

B. Budget Narrative: This narrative must describe the budget requested and match the scope of work described in the project narrative for Project Year I. It should be itemized and justified. The page limitation should not exceed 3 pages. Separate one page budgets for each of the Project Years II and III should be provided.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by September 15, 2010 at 12 midnight Eastern Standard Time (EST). Any application received after the application deadline will not be accepted for processing, and it will be returned to the applicant(s) without further consideration for funding.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via e-mail to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Paul Gettys, Division of Grants Policy (DGP) (*Paul.Gettys@ihs.gov*) or call (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGP until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGP as soon as possible.

If an applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (see 6. Electronic Submission Requirements for additional information). The waiver must be documented in writing (e-mails are acceptable), before submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGM (Refer to Section IV to obtain the mailing address). Paper applications that are submitted without a waiver will be returned to the applicant without review or further consideration. Late applications will not be accepted for processing will be returned to the applicant and will not be considered for funding.

Letters of Intent: Due August 26, 2010.

A Letter of Intent (LoI) is required from each entity that plans to apply for funding under this announcement. The LoI must be submitted to the Division of Grants Management to the attention of Denise Clark by August 26, 2010. Please submit all letters of intent via fax to (301) 443–9602. Your LoI must reference the funding opportunity number, application deadline date, and your eligibility status. The letter must be signed by the authorized organizational official within your entity.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are/are not allowable pending prior approval from the awarding agency. However, in accordance with 45 CFR Part 74 and 92, pre-award costs are incurred at the recipient's risk. The awarding office is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award to the recipient is less than anticipated.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

The preferred method for receipt of applications is electronic submission through Grants.gov. However, should any technical challenges arise regarding the submission, please contact Grants.gov Customer Support at (800) 518–4726 or *support@grants.gov.* The Contact Center hours of operation are 24 hours a day, 7 days a week. It is closed on all Federal holidays. The applicant must seek assistance at least fifteen days prior to the application deadline. Applicants that do not adhere to the timelines for Central Contractor Registry (CCR) and/or Grants.gov registration and/or requesting timely assistance with technical issues will not be a candidate for paper applications. Use the *http://www.Grants.gov* Web site to submit an application electronically and select the "Apply for Grants" link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the application via the Grants.gov Web site. Electronic copies of the application may not be submitted as attachments to e-mail messages addressed to IHS employees or offices.

Applicants that receive a waiver to submit paper application documents must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the application deadline.

Applicants that do not adhere to the timelines for Central Contractor Registry (CCR) and/or Grants.gov registration and/or request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in Grants.gov by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- Paper applications are not the preferred method for submitting applications. However, if you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *http://www.Grants.gov/CustomerSupport* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and waiver from the agency must be obtained.

• If it is determined that a waiver is needed, you must submit a request in writing (e-mails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from our standard electronic submission process.

• If the waiver is approved, the application should be sent directly to the DGM by the deadline date of September 15, 2010.

• Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for CCR and Grants.gov could take up to fifteen working days.

• Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.

• All applicants must comply with any page limitation requirements described in this Funding Announcement.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download your application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Maternal and Child Health Program will notify applicants that the application has been received.

E-mail applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

Applicants are required to have a DUNS number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a unique nine-digit identification number provided by D&B, which uniquely identifies your entity. The DUNS number is site specific; therefore each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, you may access it through the following Web site *http://fedgov.dnb.com/webform* or to expedite the process call (866) 705–5711.

Another important fact is that applicants must also be registered with the Central Contractor Registry (CCR) and a DUNS number is required before an applicant can complete their CCR registration. Registration with the CCR is free of charge. Applicants may register online at *http://www.ccr.gov.* Additional information regarding the DUNS, CCR, and Grants.gov processes can be found at: *http://www.Grants.gov.*

Applicants may register by calling 1(866) 606–8220. Please review and complete the CCR Registration worksheet located at *http://www.ccr.gov.*

V. Application Review Information

Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 70 points is required for funding. Points are assigned as follows:

1. Evaluation Criteria

Program Information 20 Points

Service population is described including risk characteristics for an Alcohol Exposed Pregnancy (AEP). Current clinical and community services and settings are detailed. Experience of the Project Choices (CHOICES) program is described. Ability to facilitate training, use of CHOICES materials, and ability to conduct implementation and evaluation of a project is described. Ability to adapt the materials for cultural acceptability for an AI/AN version while maintaining fidelity to the CHOICES model is described. Organizational capacity and key personnel are described.

Program Planning 30 Points

Project plan to implement CHOICES in three sites is described including enrollment and outreach activities. Approaches to address culture specific issues are described. Support structures for oversight of the implementation and evaluation are described. A three-year timeline with emphasis on year one is described and appended. Project monitoring activities are detailed.

Program Evaluation 30 Points

Evidence based CHOICES measures are described in the evaluation plan. Measures include a 6 month follow-up methodology for women to assess risk reduction and/or institution of effective contraception. Accountabilities for evaluation are described including process, impact, and outcome measures.

Program Report 10 Points

Reporting plan is outlined. The anticipated CHOICES materials adapted in Project Year I training and implementation phase are described. Materials development, enhancement and revisions are clearly described. Individual pilot site updates and program evaluation measures have clear expectations and timelines. Development of a communications plan separate from the semi-annual reports with project officer; other consultants and advisors; and pilot sites is described.

Budget 10 points

A categorical budget is provided. Budget is itemized and is accompanied by a justified narrative for each item. Costs are reflective of the goals and objectives of the project.

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the Objective Review Committee. Applicants will be notified by DGM, via letter, to outline the missing components of the application.

To obtain a minimum score for funding, applicants must address all program requirements and provide all required documentation. Applicants that receive less than a minimum score will be informed via e-mail of their application's deficiencies. An Executive Summary Statement outlining the strengths and weaknesses of the application will be provided to these applicants. The Executive Summary Statement will be sent to the Authorized Organizational Representative that is identified on the face page of the application.

Applications that meet eligibility requirements, are complete, and conform to this announcement will be subject to the competitive objective review and evaluation by an Ad Hoc Review Committee of Tribal, IHS, and other Federal or non-Federal reviewers. Applications will be reviewed against criteria. Reviewers will assign a numerical score to each application which will be used to rank applications. The review process will be directed by the DGM staff to ensure compliance with the HHS and IHS grant review guidelines.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) will be initiated by the DGM and will be mailed via postal mail to each entity that is approved for funding under this announcement. The NoA will be signed by the Grants Management Officer and this is the authorizing document for which funds are dispersed to the approved entities. The NoA will serve as the official notification of the grant award and will reflect the amount of Federal funds awarded for the purpose of the grant, the terms and conditions of the award, the effective date of the

award, and the budget/project period. The NoA is the legally binding document and is signed by an authorized grants official within the IHS.

2. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR, Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR, Part 74, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Title 2: Grant and Agreements, Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB A–87).
- Title 2: Grant and Agreements, Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current indirect cost rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the indirect cost portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, indirect costs rates for IHS grantees are negotiated with the Division of Cost Allocation *http://rates.psc.gov/* and the Department of Interior (National Business Center) *http://www.aqd.nbc.gov/services/ICS.aspx.* If your organization has questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

4. Reporting Requirements

Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually of each funding year. These reports will include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required/outlined in award letter. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Semi-annual Financial Status Reports (FSR) reports must be submitted within 30 days after the budget period ends.

Final FSRs are due within 90 days of expiration of the project period. Standard Form 269 (long form for those reporting on program income; short form for all others) will be used for financial reporting.

Federal Cash Transaction Reports are due every calendar quarter to the Division of Payment Management, Payment Management Branch, Department of Health and Human Services at: *http://www.dpm.gov.* Failure to submit timely reports may cause a disruption in timely payments to your organization.

Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due semi-annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived.

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

Grants (Business):

Mr. Andrew Diggs, 801 Thompson Ave., Reyes Bldg., Suite 360, Rockville, MD 20852, Telephone: (301) 443–5204, E-mail: *Andrew.Diggs@ihs.gov.*

Program (Programmatic/Technical):

Judith Thierry, 801 Thompson Ave., Reyes Bldg., Suite 300, Rockville, MD 20852, Telephone: (301) 443–5070, E-mail: *Judith.Thierry@ihs.gov.*

The Public Health Service (PHS) strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: August 12, 2010.

Randy Grinnell,

Deputy Director, Indian Health Service.

[FR Doc. 2010–20362 Filed 8–17–10; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 75 FR 48980–48983 dated August 12, 2010).

This notice reflects organizational changes in the Health Resources and Services Administration. Specifically, this notice updates the Bureau of Health Professions (RP) functional statement as a result of the Affordable Care Act, to better align functional responsibility to improve coordination and functional management; establishing clear lines of authority, responsibility, and accountability for resources and effectiveness; improving programmatic and administrative efficiencies; and optimizing use of available staff resources.

Chapter RP—Bureau of Health Professions

Section RP–10, Organization

Delete in its entirety and replace with the following:

The Bureau of Health Professions (RP) is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources and Services Administration. BHPr includes the following components:

(1) Office of the Associate Administrator (RP);

(2) Office of Administrative Management Services (RP1);

(3) Office of Shortage Designation (RP2);

(4) Office of Policy Coordination (RP3);

(5) Division of Public Health and Interdisciplinary Education (RPF);

(6) Division of Medicine and Dentistry (RPC);

(7) Division of Nursing (RPB);

(8) Division of Practitioner Data Banks (RPG);

(9) Division of Student Loans and Scholarships (RPD);

(10) Division of Workforce and Performance Management (RPV); and

(11) National Center for Analysis (RPW).

Section RP–20, Functions

(1) Delete the functional statement for the Bureau of Health Professions (RP) and replace in its entirety.

Bureau of Health Professions (RP)

The Bureau of Health Professions' (BHPr) programs are designed to improve the health of the Nation's underserved communities and vulnerable populations by assuring a diverse, culturally competent workforce is ready to provide access to quality health care services. BHPr program components provide workforce studies, identification of shortage designations, training grants for health professions, financial support to students, protection to the public from unsafe health care practitioners and support for the Nation's freestanding children's hospitals by providing funding for graduate medical education to these institutions. The Health Professions Training programs award grants to health professions schools and training programs in every State, which use the funds to develop, expand, and enhance their efforts to train the workforce America needs.

Office of the Associate Administrator (RP)

The Office of the Associate Administrator (OAA) provides overall leadership, direction, coordination, and planning in support of the BHPr programs to ensure alignment and support of the Agency mission and strategic objectives. Specifically, the OAA: (1) Directs and provides policy guidance for workforce recruitment, student assistance, training, and placement of health professionals to serve in underserved areas; (2) establishes program goals, priorities and provides oversight of program quality and integrity in execution; (3) maintains effective relationships within HRSA and with other Federal and non-Federal agencies, State and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the Nation's underserved; (4) plans, directs, and coordinates Bureau-wide management and administrative activities; (5) leads and guides Bureau programs in recruiting and retaining a diverse workforce; and (6) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the Bureau.

Office of Administrative Management Services (RP1)

Collaborates with BHPr leadership to plan, coordinate, and direct Bureau-wide administrative management activities. Specifically: (1) Plans and directs financial management activities including budget formulation, presentation, and execution functions and supports linking of the budget and planning processes; (2) provides human resource services regarding all aspects of personnel management, workforce planning as well as the allocation and utilization of personnel resources; (3) conducts all business management aspects of the review, negotiation, award, and administration of grants, cooperative agreements and contracts; (4) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the Bureau as needed; and (5) provides other support services including the acquisition, management, and maintenance of supplies, equipment and space, training, and travel.

Office of Shortage Designation (RP2)

Directly supports national efforts to address equitable distribution of health professionals for access to health care to underserved populations. Specifically: (1) Recommends health professional shortage areas and medically-underserved populations; (2) proactively collaborates with other Federal, State, and private sector partners regarding health professional shortage areas and medically-underserved populations; (3) approves designation requests and finalizes designation policies and procedures for both current and proposed designation criteria; (4) negotiates and approves State designation agreements, and (5) oversees grants to State primary care offices.

Office of Policy Coordination (RP3)

Serves as the focal point for coordination and integration of Bureau policy development, analyses, and evaluation. Specifically: (1) Coordinates Bureau-wide, cross-cutting initiatives; (2) links Bureau policy activities to HRSA-wide policy development, analyses, and evaluation; (3) serves as a key point of contact to coordinate public relations and media communications as well as activities related to congressional inquiries, and other stakeholder groups in conjunction with the Agency and Department; (4) prepares policy analysis papers and other planning documents as required, (5) analyzes issues arising from legislation, budget proposals, regulatory actions and other program or policy actions; and (6) assumes special projects or takes the lead on certain issues as tasked by the Bureau Associate or Deputy Associate Administrator.

Division of Public Health and Interdisciplinary Education (RPF)

Serves as the Bureau lead for increasing the public health workforce, interdisciplinary health professions issues and programs, including geriatric training, and activities to increase the diversity of the health professional workforce. Specifically: (1) Provides grants and technical assistance for programs of public health in the development and improvement of education for public health or specialized training in public health to expand and enhance training opportunities and competencies, critical to the current and future public health workforce; (2) plans, promotes, supports, and evaluates academic-community partnerships in development of interdisciplinary, community-based programs designed to improve the quality of health professions inter-professional education and training, continuing education for health care professionals, and/or provides health career recruitment programs for K–12 students; (3) develops, supports, recommends, coordinates and evaluates health resources and health career opportunities for diverse and disadvantaged populations; (4) provides support and guidance for career

development in geriatric specialists through faculty development, fellowships, and interdisciplinary education focused on older Americans; (5) promotes the dissemination and application of findings arising from supported programs; (6) provides leadership and staff support for the Advisory Committee on Interdisciplinary, Community-Based Linkages; and (7) maintains effective relationships within HRSA and with other Federal and non-Federal agencies, State and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the Nation's underserved.

Division of Medicine and Dentistry (RPC)

Serves as the Bureau lead in support and evaluation of medical and dental personnel development and utilization including, primary care physicians, dentists, dental hygienists, physician assistants, and other primary care specialties to provide health care in underserved areas. Specifically: (1) Administers grants to educational institutions for the development, improvement, and operation of educational programs for primary care physicians (pre-doctoral, residency), physician assistants; including support for community-based training and funding for faculty development to teach in primary care specialties training; (2) provides technical assistance and consultation to grantee institutions and other governmental and private organizations on the operation of these educational programs, which includes funding for the Nation's free standing children's hospitals to meet the costs of providing graduate medical education; (3) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (4) collaborates within the Bureau to conduct, support, or obtain analytical studies to determine the present and future supply and requirements of physicians, dentists, dental hygienists, physician assistants, and other health professionals by specialty, geographic location, and for State planning efforts; (5) supports and conducts programs with respect to activities associated with the international migration, domestic training, and utilization of foreign medical graduates and U.S. citizens studying abroad; (6) supports joint degree programs to provide interdisciplinary and inter-professional graduate training in public health and other health professions; (7) provides leadership and staff support for the Advisory Committee on Training in Primary Care Medicine and Dentistry and for the Council on Graduate Medical Education; and (8) represents the Bureau, Agency, and Federal Government, as designated, on national committees and maintains effective relationships within HRSA and with other Federal and non-Federal agencies, State and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the Nation's underserved.

Division of Nursing (RPB)

Serves as a principal Agency source of leadership for nursing education and practice, including increasing the diversity of the nursing workforce to improve access to health care in underserved areas. Specifically: (1) Provides grants and technical assistance for schools of nursing in the development, improvement of education for nursing or specialized training in primary care to enhance training opportunities and competencies critical to the current and future nursing workforce; (2) addresses nursing workforce shortages through projects that focus on expanding enrollment in baccalaureate programs, developing internship and residency programs, or providing education in new technologies, including distance learning, nurse practice projects that focus on establishing/expanding practice arrangements in non-institutional settings, providing care for underserved populations and other high-risk groups, skill-building in managed care, quality improvement and other skills needed in existing and emerging organized health care systems, or developing cultural competencies; (3) develops, supports, recommends, coordinates and evaluates health resources and health career opportunities for diverse and disadvantaged populations; (4) promotes the involvement of States and communities in developing and administering nursing programs and assists States and communities in improving access to nursing services and educational programs; (5) facilitates coordination of nursing-related issues with other governmental agencies and consults with them on national or international nursing workforce planning and development issues; (6) promotes the dissemination and application of findings arising from supported programs; (7) leads initiatives in the area of international nursing information exchange and nursing workforce planning and development; (8) the Director, on behalf of the Secretary, serves as the Chair of the National Advisory Council on Nurse Education and Practice, and provides staff support; and (9) maintains effective relationships within HRSA with external health professional groups, with other Federal and non-Federal agencies, State and local governments, and other public and private organizations with a common interest in the Nation's capacity to deliver nursing services.

Division of Practitioner Data Banks (RPG)

Coordinates with the Department and other Federal entities, State licensing boards, and national, State, and local professional organizations, to promote quality assurance efforts and deter fraud and abuse by administering the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB). Specifically: (1) Monitors adverse licensure information on all licensed health care practitioners and health care entities; (2) develops, proposes, and monitors efforts for (a) credentials assessment, granting of privileges, and monitoring and evaluating programs for physicians, dentists, and other health care professionals including quality assurance, (b) professional review of specified medical events in the health care system including quality assurance, and (c) risk management and utilization reviews; (3) encourages and supports evaluation and demonstration projects and research concerning quality assurance, medical liability and malpractice; (4) ensures integrity of data collection and follows all disclosure procedures without fail; (5) conducts and supports research based on NPDB and HIPDB information; (6) maintains active consultative relations with professional organizations, societies, and Federal agencies involved in the NPDB and HIPDB; (7) works with the Secretary's office to provide technical assistance to States undertaking malpractice reform; and (8) maintains effective relations with the Office of the General Counsel, the Office of Inspector General, and HHS concerning practitioner licensing and data bank issues.

Division of Student Loans and Scholarships (RPD)

Serves as the focal point for overseeing Federal loan and scholarship programs supporting health professionals. Specifically: (1) Monitors and assesses educational and financial institutions with respect to capabilities

and management of Federal support for students and the tracking of obligatory service requirements; (2) develops and conducts training activities for staff of educational and financial institutions; (3) coordinates financial aspects of programs with educational institutions; (4) develops program data needs and reporting requirements; and (5) maintains effective relationships within HRSA and with other Federal and non-Federal agencies, State and local governments, and other public and private organizations concerning student assistance.

Division of Workforce and Performance Management (RPV)

Serves as the Bureau focal point for internal program planning, coordination, reporting, evaluation, and analysis. Specifically: (1) Leads, guides and coordinates program planning, reporting, and evaluation activities of the Bureau Divisions and Offices; (2) provides staff services to the Associate Administrator for program and strategic planning and to the budgetary and regulatory processes; (3) assumes special projects or takes the lead on certain issues as tasked by the Bureau Associate or Deputy Associate Administrator; and (4) maintains effective relationships within HRSA and with other Federal and non-Federal agencies, State and local governments, and other public and private organizations concerning health personnel development and improving access to health care for the Nation's underserved; and (5) works collaboratively with the National Center for Workforce Analysis.

National Center for Workforce Analysis (RPW)

Provides leadership in the development and dissemination of accurate and timely data for analysis and research regarding the Nation's health workforce in order to inform decisionmaking for policymakers and to support goals related to the Nation's health professionals' workforce. Specifically: (1) Develops the capacity to directly collect health professions workforce data to quantify and measure supply, demand, distribution, shortages and surpluses at the national level, for selected disciplines and selected States and regions; (2) collaborates and conducts studies to assess and monitor factors, such as policy actions likely to impact future supply, demand, distribution and/or use of health professionals; (3) develops and coordinates the Bureau data collection and modeling on health professions' workforce in conjunction with other entities involved in data collection and analysis; (4) maintains effective relationships and conducts data collection and assesses quality within HRSA staff, other Federal and non-Federal agencies, and organizations on the health professions workforce; (5) produces reports and disseminates data on the health professions workforce within HRSA, to other Federal and non-Federal agencies, State and local governments, other public and private organizations, and the public concerned with health personnel development and improving access to health care for the Nation's underserved; and (6) works collaboratively with the Division of Workforce and Performance Management.

Section RP–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: August 11, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–20425 Filed 8–17–10; 8:45 am]

BILLING CODE 4165–15–P

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 45134–45142, dated August 2, 2010) is amended to reflect the establishment of the Office for State, Tribal, Local, and Territorial Support, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title of the Office of State and Local Support (CO) and insert the following:

Office for State, Tribal, Local and Territorial Support (CQ). The mission of the Office for State, Tribal, Local, and Territorial Support (OSTLTS) is to improve the capacity and performance of the public health system. To carry out its mission, OSTLTS: (1) Provides CDC-wide guidance and strategic direction to activities related to State, tribal, local, and territorial (STLT) public health agencies; (2) supports the improvement of performance and capacity at the state, tribal, local and territorial levels through the identification, validation, dissemination, acceleration and adoption of policies, standards, leading practices, tools and other resources; (3) provides guidance and strategic direction for the recruitment, development, and management of field staff provided to local public health agencies by CDC direct assistance finding; and (4) enhances shared leadership of public health policy and practice with local public health agencies through increased collaboration and communication.

Office of the Director (CQA). (1) Manages, directs, and coordinates the strategy, operations, and activities of OSTLTS; (2) coordinates cross-cutting CDC activities related to STLT health; (3) provides guidance, strategic direction, and oversight for the investment of OSTLTS resources and assets; (4) oversees and maintains existing government relations, partnerships, and alliances with national public health organizations that represent the public health community, especially state and local public health organizations and their regional and national affiliate organizations, including but not limited to emergency planning, preparedness, and response partners; (5) serves as one of the principal CDC liaisons to other federal agencies (such as the Department of Health and Human Services (HHS), Office of the Assistant Secretary for Preparedness and Response, the Agency for Healthcare Research and Quality, and the Centers for Medicare and Medicaid Services, the Department of Homeland Security, etc), and organizations concerning state, territorial, and local public health agencies and tribal governments; (6) communicates OSTLTS public health activities and issues to internal and external stakeholders; (7) tracks and analyzes proposed legislation, policy, and new laws for their impact on STLT public health programs and activities; (8) develops, supports, and assesses cross-agency research and science relevant to OSTLTS mission-critical activities and program direction; (9) provides guidance on policy, performance, legislative issues, and long term strategies for program development

and implementation; (10) identifies, tracks, and analyzes policies and legislation that affect OSTLTS' mission and programs, and keeps OSTLTS management and staff informed; (11) responds to or coordinates response to executive, congressional, departmental, CDC/CIO and other external requests for information; (12) responds or coordinates the response to issues management tasks; and (13) represents OSTLTS in cross-cutting strategic planning, performance management, and policy activities, such as Healthy People and health reform activities, and is OSTLTS' liaison to CDCs budget formulation and policy units.

Public Health Law Office (CQA2). (1) Provides support and consultation for, and access to, public health law expertise at state, local, territorial, and tribal public health levels; (2) reviews, studies, and disseminates information about existing state and local laws that may have application to public health; (3) engages national, state and local public health partners and policy makers, state, local, and U.S. court systems and law enforcement in identifying priorities and in developing and applying legal tools; (4) develops practical, law-centered tools for practitioners and policy makers at the STLT levels; and (5) provides consultation and technical assistance to CDC programs and partners.

Communications Office (CQA3). (1) Serves as a communications network with STLT partners; (2) establishes and interprets policies and determines priorities for communicating the value and benefits of CDC programs and STLT activities; (3) establishes, administers, and coordinates OSTLTS media relations; (4) provides leadership and guidance on developing and implementing external public affairs strategies to communicate with STLT and partners; (5) provides leadership and guidance on developing and implementing internal public affairs strategies to communicate to CDC's workforce about STLT health agencies; (6) provides guidance on leadership communication effectiveness; (7) provides leadership and guidance in using efficient and transparent processes to communicate the decision-making activities of leadership; (8) manages STLT intranet and internet websites; (9) provides written materials that reflect the scientific integrity of all CDC research, programs, and activities and is appropriate for use by CDC and OSTLTS leadership; (10) facilitates communication from CDC to diverse partners and stakeholders in collaboration with OSTLTS divisions and branches; (11) works with the Partnership Support Branch to establish a point of entry for all STLT partners to CDC that complements existing points of connection at CDC; (12) ensures OSTLTS communication activities follow policy directions established by DHHS; (13) participates in issues management and clearance activities for OSTLTS; and (14) provides guidance and leadership on Freedom of Information Act activities.

Division of Public Health Performance Improvement (COB). Provides guidance and strategic direction on a system of performance and accountability to improve STLT public health performance and health outcomes that: (1) Leads the establishment and support of standards, accreditation and improvement processes for public health agencies and public health systems; (2) collaborates with CDC programs and SILT public health agencies to identify and develop standards, policies, and initiatives; (3) reviews measures of agency performance and outcomes related to SILT public health to assure and advance CDC's effectiveness as a public health agency; (4) assesses and reports on the impact of federal investments in core infrastructure to meet the organizational capacities needed to deliver public health services; and (5) develops strategies that will accelerate improved public health outcomes through efficient and effective change in the STLT public health system.

Agency and Systems Improvement Branch (CQBB). (1) Works collaboratively to identify standards, policies, leading practices and models across STLT agencies; (2) represents OSTLTS across internal/external committees; (3) supports the development, implementation, and continued operation of a national voluntary accreditation program for STLT health agencies; (4) supports quality improvement processes and practices that contribute to agency or system core infrastructure improvements; (5) supports the development and use of public health system performance assessments and health improvement planning (e.g., National Public Health Performance Standards Program-Mobilizing for Action through Planning and Partnerships, and State Health Improvement Planning); and (6) works across CDC programs to identify infrastructure standards, policies, practices, and models for replication within the agency.

Research and Outcomes Branch (CQBC). (1) Engages in research through data collection and management, and identifies gaps in the infrastructure of the overall public health system; (2) provides resource assessment and program evaluation support in concert with program offices, fiscal policies and practices related to financial assistance and direct assistance at CDC and local public health agencies; (3) provides monitoring of relevant state-local health outcomes and other indicators as appropriate to serve as a "health improvement index" (commonly referred to as "scorecards") to stimulate health improvement activities within the state; (4) promotes the development of consistent key indicators, targets, measures, and milestones across the agency that focus on disease-specific outcomes; (5) provides jurisdiction situation scans and assessments to assure effectiveness and advance investments; (6) assesses and reports on investments in core public health infrastructure and capacities; (7) provides evidence of successful strategies, organizational structures, infrastructure capacity and system-wide improvements that impact program intervention and overall health outcomes; (8) develops periodic reports to governors, mayors, and other leaders of the legislative and executive branches of government; and (9) evaluates and validates standards, policies, leading practices and models across CDC and STLT agencies.

Division of Public Health Capacity Development (CQC). (1) Provides guidance and strategic direction on public health practice and works to advance the capacity, agility, and efficiency of STLT public health; (2) supports government relations, partnerships, and alliances with STLT health officials, and national and regional public health organizations; (3) provides STLT agencies with technical assistance and support in the assessment, review, and implementation of policies; (4) provides guidance and strategic direction for the recruitment, development, and management of field staff provided to local public health agencies; (5) develops and provides training for project officers and consultants, STLT health officers, field staff and leadership; and (6) develops and improves community programs through the dissemination and the adoption of leading practices and lessons learned.

Technical Assistance Branch (CQCB). (1) Provides leadership, tools, and techniques to enhance and foster the capability of the public health system; (2) facilitates STLT public health agency employees access to and interaction with CDC; (3) provides coordination and administration of infrastructure grants and high-level federal interagency

agreements that have impact on STLT public health programs and activities; (4) maintains federal, tribal, state and territorial technical assistance teams; (5) provides written information and assists in the coordination of CDC and OSTLTS director site visits to STLTs; and (6) provides cross-agency guidance, polices and strategic direction for the recruitment, development, and management of field staff provided to local public health agencies.

Knowledge Management Branch (CQCC). (1) Develops and provides cross-agency training regarding the management of cooperative agreements and grants for project officers, program managers, and consultants; (2) facilitates the development and provision of training and development opportunities to STLT public health partners; (3) manages the Public Health Apprentice Program and provides direct oversight and supervision for the apprentices; (4) works collaboratively across OSTLTS, CDC and STLT agencies to disseminate and promote the adoption of leading practices, lessons learned and models that improve community programs; (5) provides leadership in identifying and implementing strategies for effective collaboration of CDC and STLT public health professionals; and (6) works with the Technical Assistance Branch to facilitate STLT public health agency employees' access to and interaction with CDC.

Partnership Support Branch (CQCD). (1) Oversees and maintains the partnership cooperative agreements; (2) identifies and supports critical cross-CDC relationships and coordination as it relates to the partnership cooperative agreements; (3) provides leadership in evaluating and improving the performance of partnership cooperative agreements; and (4) manages development of funding opportunity announcements and project officer coordination for partnership cooperative agreements.

Dated: August 8, 2010.

William P. Nichols,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–20217 Filed 8–17–10; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–864, Form I–864A, Form I–864EZ, and Form I–864W; Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member, Form I–864 EZ, Affidavit of Support Under Section 213A of the Act; Form I–864W, Intending Immigrant's Affidavit of Support Exemption; OMB Control No. 1615–0075.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting 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 May 12, 2010, at 75 FR 26782, allowing for a 60-day public comment period. USCIS received 2 comments for this information collection. A discussion of the comments and USCIS' responses are addressed in item 8 of the supporting statement that can be viewed at: *http://www.regulations.gov.*

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 17, 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, 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 to the 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 Control Number 1615–0075 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 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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Affidavit of Support Under Section 213A of the Act.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–864, Form I–864A, Form I–864EZ, and Form I–864W; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households.* These forms are used by family-based and certain employment-based immigrants to have the petitioning relative execute an Affidavit of Support on their behalf.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* I–864, 439,500 responses at 6 hours per response; I–864A, 215,800 responses at 1.75 hours per response; I–864EZ, 100,000 responses at 2.5 hours per response; I–864W, 1,000 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,265,650 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: August 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–20329 Filed 8–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control No. 1615–0057]

Agency Information Collection Activities: Form N–600; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection under Review; Form N–600, Application for Certificate of Citizenship; OMB Control No. 1615–0057.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 18, 2010.

During this 60 day period, USCIS will be evaluating whether to revise the Form N–600. Should USCIS decide to revise Form N–600 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form N–600.

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), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, NW., 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.* When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0057 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–600; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information on Form N–600 to make a determination that the citizenship eligibility requirements and conditions are met by the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 88,500 responses at 1 hour and 35 minutes (1.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 140,095 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 number 202–272–8377.

Dated: August 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–20334 Filed 8–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control No. 1615–0022]

Agency Information Collection Activities: Form I–363, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection under Review: Form I–363, Request to Petition for Custody for Public Law 97–359 Amerasian; OMB Control No. 1615–0022.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting 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 June 23, 2010, at 75 FR 35822, 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 September 17, 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, 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 to the 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 Control Number 1615–0022 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 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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Request to Enforce Affidavit of Financial Support and Intent to Petition for Custody for Public Law 97–359 Amerasian.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–363; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households.* Form I–363 is used by applicants to ensure the financial support of a U.S. citizen. Without the use of Form I–363, the USCIS is not able to ensure the child does not become a public charge.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25 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: August 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–20328 Filed 8–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control No. 1615–0050]

Agency Information Collection Activities: Form N–336; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection under Review; Form N–336, Request for Hearing on a Decision in Naturalization Proceedings Under Section 336; OMB Control No. 1615–0050.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 18, 2010.

During this 60 day period, USCIS will be evaluating whether to revise the Form N–336. Should USCIS decide to revise Form N–336 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form N–336.

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), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, NW., 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.* When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0050 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Request for Hearing on a Decision in Naturalization Proceedings under Section 336.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–336; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–336 provides a method for applicants, whose applications for naturalization are denied, to request a new hearing by an Immigration Officer of the same or higher rank as the denying officer, within 30 days of the original decision.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 7,669 responses at 2 hours and 45 minutes (2.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 21,090 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 number 202–272–8377.

Dated: August 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–20337 Filed 8–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–400; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form N–400, Application for Naturalization; OMB Control No. 1615–0052.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 18, 2010.

During this 60 day period, USCIS will be evaluating whether to revise the Form N–400. Should USCIS decide to revise Form N–400 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form N–400.

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), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, NW., 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*. When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0052 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–400; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information on Form N–400 to determine an applicant's eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 700,000 responses at 6 hours and 8 minutes (6.13 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,291,000 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 number 202–272–8377.

Dated: August 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–20339 Filed 8–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–470; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form N–470, Application To Preserve Residence for Naturalization; OMB Control No. 1615–0056.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 18, 2010.

During this 60-day period, USCIS will be evaluating whether to revise the Form N–470. Should USCIS decide to revise Form N–470 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form N–470.

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), USCIS, Chief, Regulatory Products Division, 111 Massachusetts Avenue, NW., 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*. When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0056 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application to Preserve Residence for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–470; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information furnished on Form N–470 will be used to determine whether an alien who intends to be absent from the United States for a period of one year or more is eligible to preserve residence for naturalization purposes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 375 responses at 35 minutes (.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 219 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 number 202–272–8377.

Dated: August 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–20336 Filed 8–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0595]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee will meet in New Orleans to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. This meeting will be open to the public.

DATES: The Committee will meet on Thursday, September 23, 2010 from 9 a.m. to 12 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 9, 2010. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before September 9, 2010.

ADDRESSES: The Committee will meet at the New Orleans Yacht Club, 403 North Roadway, West End, New Orleans, LA 70124. Send written material and requests to make oral presentations to Chief Warrant Officer David Chapman, Assistant to the Designated Federal Officer (DFO) of Lower Mississippi River Waterway Safety Advisory Committee, ATTN: Waterways Management, 1615 Poydras St., New Orleans, LA 70112. This notice, and documents identified in the Supplementary Information section as being available in the docket may be viewed in our online docket, USCG–2010–0595, at *http://www.regulations.gov.* Meeting minutes and materials will be posted in the online docket, USCG–2010–0595, at *http://www.regulations.gov* following the meeting.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer David Chapman, Assistant to DFO of Lower Mississippi River Waterway Safety Advisory Committee, telephone 504–565–5103.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463). LMRWSAC is chartered under the Section 19 of the Coast Guard Authorization Act of 1991 (Pub. L. 102–241, as amended by section 418(g) of the Coast Guard and Maritime Transportation Act of 2004, (Pub. L. 108–293). It was established in accordance with and operates under FACA. LMRWSAC provides advice and makes recommendations to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard on matters relating to communications, surveillance, traffic management, anchorages, development and operation of the New Orleans Vessel Traffic Service (VTS), and other related topics dealing with navigation safety on the Lower Mississippi River (LMR) as required.

Agenda of Meeting

The agenda for the September 23, 2010 Committee meeting is as follows:

1. Introduction of committee members.

2. Opening Remarks.

3. Approval of the May 6, 2010 minutes.

4. Old Business—Ongoing items of interest to LMRWSAC.

a. Captain of the Port of New Orleans status report.

b. Subcommittee/Working Groups update reports.

5. New Business.

6. Adjournment.

The minutes of the May 6, 2010 meeting, which will be discussed by the Committee, may be viewed in our online docket. Go to *http://www.regulations.gov,* enter the docket number for this notice (USCG–2010–0595) in the "Keyword" box, and then click "Search."

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at a meeting, please notify the Assistant to the DFO no later than September 9, 2010. Written material for distribution at a meeting should reach the Coast Guard no later than September 9, 2010. If you would like a copy of your material distributed to each member of the committee in advance of a meeting, please submit 25 copies to the Assistant to the DFO no later than September 9, 2010.

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 DFO as soon as possible.

Dated: July 21, 2010.

Mary E. Landry,

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

[FR Doc. 2010–20363 Filed 8–17–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–11956, AA–11991, AA–11992, AA–11983, AA–11990, AA–11962, AA–11946, AA–11947, AA–11964, AA–11951, AA–11989, AA–11952, AA–11959, AA–11988, AA–11948, AA–11949, AA–11980, AA–11985, AA–11950, AA–11986, AA–11981, AA–11982, AA–12004, AA–12005; LLAK–962000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to The Aleut Corporation. The decision will approve the conveyance of only the surface estate for certain lands pursuant to the Alaska Native Claims Settlement Act. The lands are located on the Rat Islands, west of Adak, Alaska, aggregating 280.33 acres. Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 17, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may contact the BLM by calling the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

Dina L. Torres,

Land Transfer Resolution Specialist, Branch of Preparation and Resolution.

[FR Doc. 2010–20344 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2010–N131; 1265–0000–10137–S3]

Protection Island and San Juan Islands National Wildlife Refuges, Jefferson, Island, San Juan, Skagit, and Whatcom Counties, WA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan, draft wilderness stewardship plan, and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft comprehensive conservation plan (CCP), draft wilderness stewardship plan (WSP), and environmental assessment (EA) for Protection Island and San Juan Islands National Wildlife Refuges (NWRs, Refuges) for public review and comment. The Draft CCP/WSP/EA describes our alternatives, including our preferred alternative, for managing the Refuges for the 15 years following approval of the final CCP/WSP.

DATES: To ensure consideration, please send your written comments by September 17, 2010.

ADDRESSES: You may submit comments, requests for more information, or requests for copies of the Draft CCP/WSP/EA by any of the following methods.

E-mail: FW1PlanningComments@fws.gov. Include "Protection/San Juan Draft CCP" in the subject line.

Fax: Attn: Kevin Ryan, Project Leader, (360) 457–9778.

U.S. Mail: Kevin Ryan, Project Leader, Washington Maritime National Wildlife Refuge Complex, 715 Holgerson Drive, Sequim, WA 98382.

FOR FURTHER INFORMATION CONTACT: Kevin Ryan, Project Leader, (360) 457–8451.

SUPPLEMENTARY INFORMATION:

Introduction

Protection Island NWR is located in the Strait of Juan de Fuca near the entrance to Discovery Bay in Jefferson County, Washington. It includes 659 acres of land and tideland. Protection Island NWR was established to provide habitat for a diversity of birds with particular emphasis on nesting bald eagles and seabirds, as well as to protect the hauling-out area for marine mammals. It has one of the largest colonies of rhinoceros auklets in North America. The Refuge also provides opportunities for scientific research and wildlife-oriented education and interpretation.

Most of the San Juan Islands NWR consists of rocks, reefs, and islands scattered throughout the San Juan Archipelago. Two islands, Smith and Minor, are located south of the archipelago within the Strait of Juan de Fuca. The Refuge consists of approximately 449 acres in Island, San Juan, Skagit, and Whatcom Counties, Washington. Most (353 acres) of San Juan Islands NWR is also designated wilderness known as the San Juan Islands Wilderness Area. San Juan Islands NWR was established to facilitate management of migratory birds, including serving as a breeding ground and winter sanctuary for native birds. It was also intended to be a refuge for other wildlife. This Refuge is particularly important to breeding black oystercatchers, cormorants, and harbor seals.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years

in accordance with the Refuge System Administration Act.

Public Outreach

We began public outreach by publishing a Notice of Intent in the **Federal Register** on August 14, 2007 (72 FR 45444), announcing our intent to complete a CCP/EA and inviting public comments. In October 2007, we distributed Planning Update 1, which included background information on the Refuges, preliminary issues and goals, and a mail-in comment form. In the later part of 2007 and first half of 2008, Refuge and regional office staff held meetings with other Federal agencies, State agencies, county-based Marine Resource Committees, the research community, and nongovernmental organizations. In August 2008, we distributed Planning Update 2, which included the results of initial scoping, preliminary management options, and an invitation to the public open house meetings. The open house public meetings were held on September 23 and 24, 2008, in Friday Harbor and Port Townsend, Washington, respectively. We presented preliminary management options and obtained public comments at these meetings.

Draft CCP/WSP/EA Alternatives We Are Considering

We identified and evaluated three alternatives for managing the Refuges, including current management (Alternative A). Brief descriptions of the alternatives follow.

Alternative A (Current Management)

Under Alternative A, the Refuges would continue with current management, which focuses on stewardship, including removing unnecessary roads and human structures; allowing natural processes to occur with minimal human intervention; monitoring wildlife species; and working with partners to reduce the risk of oil spills, clean up marine debris, and educate boaters to minimize human-caused wildlife disturbance. Protection Island NWR would continue to be closed to the general public. Scientific research activities on Protection Island would continue with an emphasis on existing long-term partnerships. Recreational activities, including wildlife observation, photography, and camping on Turn and Matia Islands within the San Juan Islands Refuge, would continue as they have in the past and be facilitated through a State Parks partnership.

Alternative B (Preferred Alternative)

This alternative would continue many of the activities in Alternative A, and would include more active habitat management projects, such as removing deer from Protection Island to enhance seabird nesting habitat and forest habitat; restoration projects on the spits, grasslands, and forests to increase native plant diversity; and the facilitation of new research and monitoring studies and partnerships to find answers to Refuge management questions. Public use changes include prohibiting pets on all Refuge lands and closing some areas on Turn Island, including all of the rocky shoreline to the east and the southeast beach as well as most of the island's interior. Overnight camping on Turn and Matia Islands would be limited to visitors arriving by human-powered craft, and a camping reservation system would be initiated. There would be more emphasis on enhancing the public's understanding and appreciation of the Refuges' natural, cultural, and wilderness resources through both on- and off-Refuge interpretation and education programs. There would be fewer large signs but more medium-sized signs installed on San Juan Islands Refuge units to discourage close approach or trespassing on closed islands. There would also be more emphasis on working with existing partners and developing new partnerships to accomplish objectives.

Alternative C

This Alternative is very similar to Alternative B; the primary differences are fewer acres of native habitat restoration, as well as less research and fewer monitoring studies and surveys. Camping would continue with fewer campsites on Matia Island, and Turn Island would be limited to day-use only. Compared to Alternative B, fewer and mostly smaller signs would be used in Alternative C to identify closed Refuge islands and reduce human-caused wildlife disturbance.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can obtain a CD–ROM copy of the Draft CCP/WSP/EA from the Refuge by calling (360) 457–8451. Copies may be reviewed at the Refuge and on the Internet at *http://www.fws.gov/pacific/planning/main/docs/WA/docsprotectionIs.htm*. Printed copies will be available for review at the following libraries in northwestern Washington: Anacortes Public Library, Bellingham Public Library, Clinton Public Library, Coupeville Public Library, Evergreen State College Library, Island Public Library, Jefferson County Central Library, Lopez Island Public Library, North Olympic Public Library, Oak Harbor Public Library, Orcas Island Public Library, Peninsula College Library, San Juan Islands Library, Shaw Island Library, University of Puget Sound Library, University of Washington Library, and Waldron Island Library.

Next Steps

After this comment period ends, we will analyze the comments and address them in the final CCP/WSP and decision document.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your identifying information from the public, we cannot guarantee that we will be able to do so.

Dated: July 2, 2010.

Carolyn A. Bohan,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 2010–20542 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO120900–L10200000–PA0000; HAG–10–0097]

Final Supplementary Rules for Public Land in Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Supplementary Rules on the BLM lands in Oregon and Washington.

SUMMARY: The Bureau of Land Management (BLM) Oregon State Office is proposing Final Supplementary Rules for the BLM lands within the States of Oregon and Washington. These Final Supplementary Rules revise existing supplementary rules. These revisions are necessary in order to protect public land natural resources and provide for the public's health and safety. They provide needed guidance in the areas of special forest products and recreation, allow for the assessment of penalties that are commensurate with the magnitude of prohibited acts, and promote consistency among the BLM and other natural resource agencies.

DATES: *Effective Date:* These rules are effective September 17, 2010.

ADDRESSES: You may send inquires to the BLM, Office of Law Enforcement, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: State Staff Ranger Mike Roop, BLM, Oregon State Office, 333 SW. 1st Ave., Portland, Oregon, 97204, 503–808–6410 or *michael_roop@blm.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The BLM proposed these Supplementary Rules in the **Federal Register** on September 21, 2009 (74 FR 48096). These Supplementary Rules revise existing Supplementary Rules. These revisions are necessary in order to protect public land natural resources and provide for the public's health and safety. They provide needed guidance in the areas of special forest products and recreation, allow for the assessment of penalties that are commensurate with the magnitude of prohibited acts, and promote consistency between the BLM and other natural resource agencies, including the U.S. Forest Service, National Park Service, Oregon State Parks and Recreation Department, and the State of Washington Department of Natural Resources. The BLM received one substantive comment regarding the Juniper Dunes Off-Highway Vehicle (OHV) area. The concern was about the definition of OHV/All Terrain Vehicle (ATV) and the required use of helmets for OHV/ATV users on the dunes. A revision was made to clarify the requirement. The occupants of street legal, four-wheeled vehicles are not required to wear helmets while in the Juniper Dunes OHV area. Otherwise, with the exception of minor non-substantive grammatical and formatting changes, the Final Supplementary Rules remain as proposed.

II. Discussion

These Final Supplementary Rules fill in gaps between existing Supplementary Rules and provisions administered by other land management agencies. The existing Supplementary Rules (70 FR 48584) for Oregon and Washington public lands were published on August 18, 2005.

Currently, the BLM's forest and plant products program in Oregon and Washington lacks specific rules with penalties for theft or permit violations.

From Fiscal Year (FY) 2000 to FY 2007, the BLM in Oregon and Washington experienced 533 firewood theft incidents and 372 forest product theft incidents. These incidents involved sales of firewood at makeshift sites located on public lands, and other commercial uses of public lands that are not clearly prohibited in existing rules. The Final Supplementary Rules enable the BLM to address such incidents.

Additionally, the current regulations do not adequately protect the BLM's administrative and day-use sites in Oregon and Washington. Administrative sites include fire guard stations, maintenance buildings, ware yards, residences, and outbuildings. Day-use sites include the Dean Creek Elk Viewing Site, interpretive pull-outs, picnic areas, and other sites improved for public use during daylight hours. The Final Supplementary Rules prohibit unauthorized entry and overnight use of administrative and day-use sites.

Supplementary Rules are also necessary to address the Juniper Dunes OHV/ATV area. In the spring of 2007, the BLM obtained an easement for public access to the Juniper Dunes OHV/ATV area in Franklin County, which is located in southeast Washington State. The BLM constructed parking areas and an informational kiosk. After development, the BLM realized the existing rules did not address safety concerns adequately. In May 2007, the BLM posted temporary rules at the Dunes and in the BLM Spokane District Office. These rules were based on safety concerns and modeled on the State of Washington OHV/ATV regulations, and were intended to reduce conflicts with and damage to adjacent private landowners. The Final Supplementary Rules for the Juniper Dunes OHV/ATV area replace the temporary rules, which have reduced safety issues and user/resident conflicts.

Finally, Supplementary Rules are also necessary in order to address the process and requirements for permit applications and investigations. The wording of the Final Supplementary Rule is identical to the National Park Service (36 CFR 2.32 (a)(4)) and the U.S. Forest Service (36 CFR 261.3(b)) rules.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

The Final Supplementary Rules do not constitute a "significant regulatory action," and are not subject to review by the Office of Management and Budget under Executive Order 12866. The Final Supplementary Rules will not have an effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The Final Supplementary Rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The Final Supplementary Rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients, and they do not raise novel legal or policy issues. They merely impose rules of conduct and impose other limitations on certain recreational and commercial activities on certain public lands to protect natural resources and human health and safety.

National Environmental Policy Act

The BLM has found that the Final Supplementary Rules are of a procedural nature and thus are categorically excluded from environmental review under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(C), pursuant to 43 CFR 46.210(i). In addition, the Final Supplementary Rules do not present any of the 12 extraordinary circumstances listed at 43 CFR 46.215. Pursuant to the White House Council on Environmental Quality's regulations (40 CFR 1508.4) and the environmental regulations, policies, and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These Final Supplementary Rules should have no effect on business entities of any size. They would merely impose reasonable restrictions on certain recreational or commercial activities on public lands in order to protect natural resources and the environment and provide for human health and safety. Therefore, the BLM has determined, under the RFA, that these Final Supplementary Rules would

not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Final Supplementary Rules do not constitute a "major rule" as defined at 5 U.S.C. 804(2). The Final Supplemental Rules would not result in an effect on the economy of $100 million or more, an increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would merely impose reasonable restrictions on certain recreational and illegal commercial activities on certain public lands to protect natural resources, the environment, and human health and safety.

Unfunded Mandates Reform Act

The Final Supplementary Rules do not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. They would not have a significant or unique effect on State, local, or Tribal governments or the private sector. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. They also specifically call for compliance with State laws and regulations. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The Final Supplementary Rules do not constitute a government action capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that the rule would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

The Final Supplementary Rules would not have a substantial, direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The Final Supplementary Rules, in several instances, call for compliance with State law. Therefore, in accordance with Executive Order 13132, the BLM has determined that these Final Supplementary Rules do not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

The BLM has determined that the Final Supplementary Rules do not unduly burden the judicial system and meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these Final Supplementary Rules will not result in significant changes to BLM policy and that tribal governments will not be unduly affected by this rule. This rule has no bearing on trust lands or on lands for which title is held in fee status by Indian Tribes of U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing the Final Supplementary Rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

Executive Order 13211, Effects on the Nation's Energy Supply

The Final Supplementary Rules have no implications under Executive Order 13211.

Paperwork Reduction Act

These Final Supplementary Rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Author

The principal author of these Final Supplementary Rules is Mike Roop, State Staff Ranger, Bureau of Land Management.

For the reasons stated in the preamble and under the 43 CFR 8365.1–6, 43 U.S.C. 1740, 16 U.S.C. 670h(c)(5), and 43 U.S.C. 315a, the BLM Oregon/Washington State Director proposes to issue supplementary rules for public lands managed by the BLM in Oregon and Washington, to read as follows:

Supplementary Rules for Oregon and Washington

Definitions

ATV/OHV means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swamp land, or other natural terrain.

Authorized Employee means any employee of the Bureau of Land Management who has been designated the authority to perform the duties in these rules.

Commercial Use means a use or activity for which an entry or participation fee is charged or for which the primary purpose is the sale of a good or service and, in either case, regardless of whether the use or activity is intended to produce a profit.

Damage means to injure, mutilate, deface, destroy, cut, chop, girdle, dig, excavate, or kill.

Day-Use Area means an area that is to be utilized in the hours of daylight or within the posted hours of operation. No camping is allowed.

Forest or Plant Product means all vegetative material that is not normally measured in board feet but can be sold or removed from public lands by means of the issuance of a contract or permit.

Street Legal, Four-Wheeled Vehicle means any vehicle with four wheels, which meets the state vehicle equipment requirements for a passenger vehicle, is registered with a state Department of Motor Vehicles, and carries vehicle insurance.

Prohibited Acts:

Unless otherwise authorized, the following acts are prohibited on public lands within Oregon and Washington:

1. *Forest or Plant Products.*

(a) You must not cut or otherwise damage any timber, tree, other forest product or plant, either live or dead, except as authorized by written permit, special-use authorization, contract, Federal law or regulation, or with written permission from an authorized employee.

(b) You must not remove any timber, tree, other forest product or plant, either live or dead, without authorization by written permit, special-use authorization, contract, or Federal law or regulation, or without written permission from an authorized employee.

(c) You must not fail to properly tag, mark, or transport any forest product or plant, either live or dead, as required by Federal or State regulation or law.

(d) You must not fail to possess and properly fill out any permit paperwork as required by Federal or State permit stipulation, regulation, or law.

(e) You must not violate the terms or conditions of any BLM-issued permit.

(f) You must not dispose of, burn, or possess any type of firewood or wood pallets containing nails, screws, or other metal hardware.

(g) You must not introduce new species without authorization.

(h) You must not possess, use, or store any hay, straw, or mulch that has not been certified as free of prohibited noxious vegetative parts and/or seeds at any time of the year. Certification must comply with the State, Regional, or Federal Weed-Free Forage Certification Standards.

2. *Day-Use Areas.*

(a) You must not enter or use any day-use area before or after the posted use hours.

(b) You must not enter any closed day-use area.

3. *Commercial Use Permits.*

(a) You must not operate any commercial business on public lands without a permit or written permission from an authorized employee.

(b) You must not violate the terms or conditions of any BLM-issued permit.

(c) You must not conduct research projects or scientific studies without a permit.

4. *Juniper Dunes ATV/OHV Use Area.*

(a) You must wear an industry-approved safety helmet when operating a motorcycle or ATV/OHV on all BLM public or leased lands and roads within the Juniper Dunes area. This requirement does not apply to occupants of street-legal, four-wheeled vehicles.

(b) You must not carry a passenger when operating a motorcycle or ATV/OHV on BLM public lands and roads unless the ATV/OHV is designed by the manufacturer to carry a passenger.

(c) You must not operate a motorcycle or ATV/OHV without a safety flag while on BLM lands in the Juniper Dunes. All such vehicles must have a whip mast and a 6-inch x 12-inch red/orange safety flag. Flags may be of pennant, triangle, square, or rectangular shape. Safety flags must be attached within 10 inches of the tip of the whip mast with club or other flags mounted below the safety flag or on another whip. Masts must be a minimum of 6 feet in height/length or industry standard height/length.

(d) You must not operate a motorcycle or ATV/OHV without a safety flag on Peterson Road, Juniper Road, Smith Canyon Road, and/or Wilderness Road. Safety flags are not required for street-legal, four-wheeled passenger vehicles on those roads.

(e) You must not use wood pallets for any type of fire on BLM lands or roads in the Juniper Dunes area.

(f) You must not race or drive recklessly or carelessly on Peterson Road, Juniper Road, Smith Canyon Road, and/or Wilderness Road.

5. *Administrative Sites.*

(a) You must not enter or climb on any BLM buildings or structures, occupied or unoccupied, unless authorized.

(b) You must not operate or park any motorized vehicle on any closed service road or any closed BLM residential road or any area adjacent to a BLM building.

(c) You must not stay or park overnight on the grounds of any BLM residential building, unless authorized.

(d) You must not enter any closed BLM residential or work area, unless authorized.

6. *Conduct.*

You must not give any false, fictitious, or fraudulent report or other misleading information:

(a) To a BLM officer investigating an accident or violation of law or regulation;

(b) to an authorized employee engaged in his/her official duties; or

(c) on an application for a permit.

Exemptions: The following persons are exempt from these rules: any Federal, State, or local officer or employee acting within the scope of his/her duties; members of any organized rescue or firefighting force in performance of an official duty; and any person authorized in writing by the BLM.

Penalties

Any person who violates any of these supplementary rules on public lands in grazing districts (see 43 U.S.C. 315a) or public lands leased for grazing under 43 U.S.C. 315m, may be tried before a United States Magistrate Judge, and fined no more than $500. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Any person who violates any of these supplementary rules on public lands subject to a conservation and rehabilitation program implemented by the Secretary of the Interior under 16 U.S.C. 670g *et seq.* (Sikes Act), may be tried before a United States Magistrate Judge, and fined no more than $500 or imprisoned for no more than six months or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Public lands under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360–7, any person who violates any of these supplementary rules may be tried before a United States Magistrate Judge and fined no more than $1,000 or imprisoned for no more than 12 months or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Edward W. Shepard,

State Director, Oregon/Washington.

[FR Doc. 2010–20338 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Liquor Ordinance of the Wichita and Affiliated Tribes; Correction

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice; correction

SUMMARY: The Bureau of Indian Affairs published a document in the **Federal Register** of July 27, 2010, concerning the Liquor Ordinance of the Wichita and Affiliated Tribes. The notice refers to an amended ordinance of the Wichita and Affiliated Tribes when in fact the Liquor Ordinance adopted by Resolution No. WT–10–31 on May 14, 2010 is an entirely new ordinance. The notice also erroneously refers in one location to an "amended ordinance of the Prairie Band Potawatomi Nation."

DATES: *Effective Date:* This correction is effective as of August 18, 2010.

FOR FURTHER INFORMATION CONTACT: Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240; Telephone (202) 513–7641; Fax (202) 208–5113.

Correction

In the **Federal Register** of July 27, 2010, in FR Doc. 2010–18319, on page 44011, in the first and second columns, delete the word "amended" wherever it appears. On page 44011, in the second column, remove the sentence:

"The amended Liquor Ordinance of the Prairie Band Potawatomi Nation reads as follows:" and add in its place the sentence:

"The Liquor Ordinance of the Wichita and Affiliated Tribes reads as follows:"

Dated: August 11, 2010.

George Skibine,

Acting Principal Deputy Assistant Secretary, Office of the Assistant Secretary—Indian Affairs.

[FR Doc. 2010–20421 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000 L16100000.DO0000.WBSLXSS073H0000; GP10–0347]

Notice of Public Meeting, Eastern Washington Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Washington Resource Advisory Council (EWRAC) will meet as indicated below.

DATES: September 16, 2010.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. It will begin at 10 a.m. and end at 2 p.m. on September 16. Members of the public will have an opportunity to address the EWRAC at 10 a.m. The meeting will be held at The Potato Commission, 108 S. Interlake Rd, Moses Lake, Washington 98837–2950. Discussion will focus on the Spokane and San Juan Islands Resource Management Plan (RMP).

FOR FURTHER INFORMATION CONTACT: BLM Spokane District, 1103 N. Fancher Rd., Spokane Valley, WA 99212, or call (509) 536–1200.

Robert B. Towne,

Spokane District Manager.

[FR Doc. 2010–20417 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Public Meeting of the Concessions Management Advisory Board

AGENCY: National Park Service, Interior.

ACTION: Notice of public meeting of the Concessions Management Advisory Board.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that the 22nd meeting of the Concessions Management Advisory Board (the Board) will be held to discuss concessions issues.

DATES: The meeting dates are September 20–21, 2010, beginning at 9 a.m. each day.

Location: Glacier National Park, Lake McDonald Lodge, West Glacier, Montana 59936; Phone number: 406/892–2525.

FOR FURTHER INFORMATION CONTACT: National Park Service, Commercial Services Program, 1201 Eye Street, NW., Washington, DC 20005, Telephone: 202/513–7156.

SUPPLEMENTARY INFORMATION: The Board was established by Title IV, Section 409 of the National Parks Omnibus Management Act of 1998, November 13, 1998 (Pub. L. 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System. The members of the Advisory Board are: Dr. James J. Eyster, Ms. Ramona Sakiestewa, Mr. Richard Linford, and Mr. Phil Voorhees, Mr. Edward E. Mace, Ms. Ruth Griswold Coleman, and Ms. Michele Michalewicz.

Topics that will be presented during the meeting include:

- General Commercial Services Program Updates.
- Concession Contracting Status Update.
- Regional Reports.
- Standards, Evaluations, and Rate Approval Project Update.
- Update on Professionalization of Commercial Services Program—Human Capital Strategy.
- Commercial Services Learning and Development Updates.
- New business.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will require an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time. Such requests should be made to the Director, National Park Service, Attention: Chief, Commercial Services Program, at least 7 days prior to the meeting. Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting, at the Commercial Services Program office located at 1201 Eye Street, NW., 11th Floor, Washington, DC.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 5, 2010.

Daniel N. Wenk,

Deputy Director.

[FR Doc. 2010–20359 Filed 8–17–10; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Public Meetings for the National Park Service (NPS) Alaska Region's Subsistence Resource Commission (SRC) Program

AGENCY: National Park Service, Interior.

ACTION: Notice of public meetings for the National Park Service (NPS) Alaska Region's Subsistence Resource Commission (SRC) program.

SUMMARY: The Lake Clark National Park SRC, Aniakchak National Monument SRC and Wrangell-St. Elias SRC plan to meet to develop and continue work on National Park Service (NPS) subsistence hunting program recommendations and other related subsistence management issues. The NPS SRC program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act.

Public Availability of Comments: The proposed meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the SRC. The SRC meetings will be recorded and meeting minutes will be available upon request from the park superintendent in approximately six weeks. Before

including your address, telephone number, e-mail address, or other personal identifying information in your written or oral comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Lake Clark National Park SRC Meeting Date and Location: The Lake Clark National Park SRC meeting will be held on Tuesday, September 14, 2010, from 1:30 p.m. to 5 p.m. at the Iliamna Village Council Office in Iliamna, AK.

For Further Information on the Lake Clark National Park SRC Meeting Contact: Joel Hard, Superintendent, at (907) 644–3627 and Michelle Ravenmoon, Subsistence Manager, (907) 781–2135, Lake Clark National Park and Preserve, 1 Park Place, Port Alsworth, AK 99753, or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603.

Aniakchak National Monument SRC Meeting Date and Location: The Aniakchak National Monument SRC meeting will be held on Monday, September 20, 2010, from 1 p.m. to 5 p.m. at the Chignik Lake Subsistence Building, in Chignik Lake, AK.

For Further Information on the Aniakchak National Monument Meeting Contact: Ralph Moore, Superintendent, at (907) 246–3305 and Mary McBurney, Subsistence Manager, (907) 235–7891, Aniakchak National Monument and Preserve, P.O. Box 7, King Salmon, AK 99613, or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603.

Wrangell-St-Elias National Park SRC Meeting Date and Location: The Wrangell-St. Elias National Park SRC meeting will be held on October 6, 2010, from 1 p.m. to 7 p.m. The meeting is scheduled to reconvene on Thursday, October 7, 2010, from 9 a.m. to 5 p.m. or until business is completed. This meeting will be held at Fast Eddy's Motel and Restaurant located at Mile 1313 on the Alaska Highway in Tok, AK.

For Further Information on the Wrangell-St-Elias National Park SRC Meeting Contact: Meg Jensen, Superintendent, at (907) 822–5234, and Barbara Cellarius, Subsistence Manager, (907) 822–7236, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, AK 99753, or Clarence Summers, Subsistence Manager, NPS Alaska Regional Office, at (907) 644–3603.

These meetings may end early if all business is completed. If any meeting date or location is changed due to inclement weather or local circumstances, the park superintendent will provide public notice.

Proposed SRC Meeting Agenda

The proposed meeting agenda for each meeting includes the following:

1. Call to order.
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Administrative Announcements.
5. Review and Approve Agenda.
6. Approval of Minutes from Last SRC Meeting.
7. SRC Member Reports.
8. Public and Other Agency Reports.
9. Old Business.
   a. Subsistence Uses of Horns, Antlers, Bones and Plants EA Update.
   b. Ranger Report—Update on NPS 36 CFR Regulatory Changes.
   c. Status Report—Caribou Herd Management/Planning.
   d. Access Issues Report (Off-Highway Vehicle Use/Studies).
10. New Business.
    a. Subsistence Manager Update.
    1. Federal Subsistence Board—Fish and Wildlife Update.
    2. Federal Subsistence Board Program Review Update.
    3. Alaska Board of Game Update.
    4. Subsistence Projects.
    b. Resource Management Program Update.
    c. SRC Chairs' Conference Update.
11. Public and other Agency Comments.
12. SRC Work/Training Session.
13. Set Time and Place for next SRC Meeting.
14. Adjournment.

Sue E. Masica,

Regional Director, Alaska.

[FR Doc. 2010–20356 Filed 8–17–10; 8:45 am]

BILLING CODE 4312–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 17, 2010. Pursuant to § 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 2, 2010.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

J. Paul Loether,

Chief, National Register of Historic Places/National, Historic Landmarks Program.

CONNECTICUT

Fairfield County

Bruer, Marcel, House II, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 122 Sunset Hill Rd, New Canaan, 10000572

Chivvis, Arthur and Lyn, House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 2 Wydendown Rd, New Canaan, 10000564

Durisol House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 3 Marshall Ridge Rd, New Canaan, 10000566

Ford, Elinor and Sherman, House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 55 Talmadge Hill Rd, New Canaan, 10000574

Hall, Isaac Davis and Marion Dalton, House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 25 Lambert Rd, New Canaan, 10000573

Lee, John Black, House I, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 729 Laurel Rd, New Canaan, 10000568

Mills, Beaven W., House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 31 Chichester Rd, New Canaan, 10000565

Mills, Willis N, House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 1380 Ponus Ridge Rd, New Canaan, 10000567

Murphy, Charles and Peggy, House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 320 N Wilton Rd, New Canaan, 10000563

Swallen, James, House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 257 Wahackme Rd, New Canaan, 10000570

System House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–

1979, MPS) 128 Winchester Rd, New Canaan, 10000571
Tatum, Corinne and George Liston Jr., House, (Mid-Twentieth-Century Modern Residences in Connecticut 1930–1979, MPS) 431 Valley Rd, New Canaan, 10000569

Hartford County

Melrose, Broad Brooks and Melrose Rds, East Windsor, 10000577

Windham County

Old Westfield Cemetery, 320 N St, Killingly, 10000578

DELAWARE

New Castle County

Owl's Nest Country Place, 201 Owl's Nest Rd, Greenville, 10000597

MARYLAND

Baltimore County

Long Island Farm, 220 Cromwell Bridge Rd, Parkville, 10000586

Frederick County

Crampton's Gap Historic District, (South Mountain Battlefields—September 14, 1862, MPS) Route 17; Gapland Rd; Mt. Church Rd; Brownsville Pass Rd; Townsend Rd, Burkittsville, 10000576
Turner's and Fox's Gaps Historic District, (South Mountain Battlefields—September 14, 1862, MPS) U.S. 40–A and Reno Monument, Daglren, Frostown, Mt. Tabor, and Moser Rds, Middletown, 10000575

MINNESOTA

Big Stone County

St. Pauli Norwegian Evangelical Lutheran Church, 33022 U.S. HWY 75, Almond Township, 10000581

Dakota County

Waterford Bridge, (Iron and Steel Bridges in Minnesota MPS) Canada Ave over Cannon River, Minnesota, 10000580

MISSOURI

St. Louis Independent city

S. Pfeiffer Manufacturing Company Headquarters, 3965 Laclede, St. Louis, 10000598

MONTANA

Cascade County

Great Falls West Bank Historic District, 300 and 400 Blocks, 3rd St NW, Great Falls, 10000587

NEBRASKA

Dodge County

Scribner Town Hall, W terminus of Howard St at 3rd St, Scribner, 10000608

Douglas County

Apartments at 2514 North 16th Street, (Apartments, Flats and Tenements in Omaha, Nebraska from 1880–1962) 2514 N 16th St, Omaha, 10000607

Sheridan County

District #119 North School, (School Buildings in Nebraska MPS) S side of Sandy Ave, Ellsworth, 10000606

NEW YORK

Albany County

Presbyterian Church in New Scotland and the New Scotland Cemetery, 2010 New Scotland Rd and 478 New Scotland Rd S., New Scotland, 10000592

Chenango County

Rockwells Mills Historic District, NY 8, Crandall Rd, Chenango, 10000610

Delaware County

Seeley, Erskine L., House, 46 Main St, Stamford, 10000593

Dutchess County

Second Baptist Church of Dover, 29 Mill St, Dover Plains, 10000589

Greene County

Moore-Howland Estate, 4 NY 385, Catskill, 10000609
Torry—Chittendon Farmhouse, 4268 CR 20, Durham, 10000612

Montgomery County

Caspar Getman Farmstead, 1311 Stone Arabia Rd, Stone Arabia, 10000594

New York County

Park Avenue Historic District, 900–1240 and 903–1235 Park Ave, New York, 10000588

Niagara County

Morse Cobblestone Farmhouse, (Cobblestone Architecture of New York State MPS) 2773 Maple Rd, Wilson, 10000591

Onondaga County

Onondaga Highlands—Swaneola Heights Historic District, Bellevue, Onondaga, Summit, Stolp, Ruskin, Clairmonte Aves, Beverly Rd, Syracuse, 10000590

Suffolk County

Saint Ann's Episcopal Church, (Isaac Henry Green, Jr. Suffolk and Nassau Counties, New York MPS) 257 Middle Rd, Sayville, 10000611

Tompkins County

Bates, Rufus and Flora, House, 107 Giles St, Ithaca, 10000595

NORTH CAROLINA

Buncombe County

Blake House, 150 Royal Pines Dr, Arden, 10000600

Johnston County

Downtown Selma Historic District, Includes portions of both sides of N and S Raiford, E & W Anderson, E and W Waddell, and E and W Railroad Sts, and W Web, Selma, 10000601

Martin County

Roberson—Everett-Roebuck House, 105 S Outterbridge St, Robersonville, 10000602

Mecklenburg County

Grier-Rea House, (Rural Mecklenburg County MPS) 6701 Providence Rd, Charlotte, 10000603

Polk County

Lynncote, 3318 Lynn Rd, Tryon, 10000604

NORTH DAKOTA

Grand Forks County

R.S. Blome Granitoid Pavement in Grand Forks Boundary Increase, Lewis Blvd between Conklin and Fenton Ave, Lewis Blvd between Fenton Ave and Seward Ave; Woodland Ave between S 4th and Grand Forks, 10000605

OREGON

Multnomah County

Arlington Club, (Downtown Portland, Oregon MPS) 811 SW Salmon St, Portland, 10000599

VIRGINIA

Hampton Independent city

Chapel of the Centurion, 134 Bernard Rd, Fort Monroe, 10000582
Quarters 1,151 Bernard Rd, Fort Monroe, 10000583
Quarters 17, 41A, 41B, 47A, 47B Bernard Rd, Fort Monroe, 10000584

Richmond Independent city

Crenshaw House, 919 W Franklin St, Richmond, 10000585

WEST VIRGINIA

Tucker County

Tucker County Bank Building, 1000 Walnut St, Parsons, 10000579

[FR Doc. 2010–20348 Filed 8–17–10; 8:45 am]
BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Central Band of Cherokee

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Notice is hereby given that the Assistant Secretary-Indian Affairs (AS–IA) proposes to decline to acknowledge that the group known as the "Central Band of Cherokee" (CBC), Petitioner #227, c/o Mr. Joe H. White, #1 Public Square, Lawrenceburg, Tennessee 38464, is an Indian tribe within the meaning of Federal law. This notice is based on an investigation pursuant to 25 CFR 83.10(e) that determined that the petitioner does not meet one of the seven mandatory criteria set forth in 25 CFR 83.7, specifically criterion 83.7(e), and therefore does not meet the

requirements for a government-to-government relationship with the United States.

DATES: Publication of the AS–IA's notice of the proposed finding in the **Federal Register** initiates a 180-day comment period during which the petitioner, interested parties, or informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the proposed finding. The regulations at 25 CFR 83.10(k) provide the petitioner a minimum of 60 days to respond to any submissions on the proposed findings received during the comment period. Comments on this proposed finding (PF) are due on or before February 14, 2011. See the **SUPPLEMENTARY INFORMATION** section of this notice for more information about these dates.

ADDRESSES: Comments on the proposed finding or requests for a copy of the report which summarizes the evidence, reasoning, and analyses that are the basis for this proposed finding, should be addressed to the Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS–34B–SIB, Washington, DC 20240. Interested or informed parties must provide copies of their submissions to the petitioner.

FOR FURTHER INFORMATION CONTACT: Alycon Pierce, Acting Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with authority delegated by the Secretary of the Interior (Secretary) to the AS–IA by 209 DM 8.

The petitioner claims its members are descendants of Cherokee Indians who had not given up their rights to lands in Tennessee that were identified in an 1806 treaty with the historical Cherokee tribe. The petitioner also claims that some of its ancestors living in Tennessee evaded removal or escaped when the Cherokee were removed from North Carolina in the late 1830s. None of the evidence submitted by the petitioner or found by OFA researchers demonstrates the validity of these claims.

In order to meet criterion 83.7(e), a petitioner must demonstrate that its current members descend from a historical Indian tribe, or tribes that combined and functioned as an autonomous political entity.

The petitioner submitted a November 20, 2007, membership list, separately certified by the group's governing body, of about 510 names. OFA discounted the duplicate entries, and names of deceased and resigned members, resulting in a total of 407 living members of the group. Although the petitioner submitted genealogical charts, reports, and individually produced or self-published genealogies that included family legends or traditions that some of those individuals were Cherokee or other Indians, the petitioner did not document those claimed connections. Further, the petitioner did not provide evidence acceptable to the Secretary that the ancestors identified in the genealogical descent reports or family histories were part of the historical Cherokee tribe, or any other historical Indian tribe.

The petitioner did not provide copies of each member's own birth, baptismal, or other reliable, contemporary record that names the individual and his or her parents. The petitioner did not provide evidence that documents each of the preceding generations that would connect the current member to the historical tribe. The petitioner submitted copies of censuses, voter lists, and other historical documents, that mentioned some of the petitioner's claimed ancestors. None of this evidence validated any of the claims or traditions that those individuals were Indian descendants. This complete lack of evidence that the petitioner could meet criterion 83.7(e) triggered an investigation under 83.10(e) before placing a petitioner on active consideration.

The Department's researchers investigated the petitioner's claims and looked in places where one would expect to find evidence of descent from the historical tribe. This investigation located evidence that clearly establishes that Petitioner #227's membership does not consist of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. The evidence clearly establishes that the petitioner does not meet mandatory criterion 83.7(e), as required by the regulations at section 83.7(e) as modified by 83.10(e).

The readily available evidence located by Department researchers clearly establishes that the petitioner's ancestors did not descend from an Indian tribe; rather they were descendants of non-Indians who migrated to Tennessee from disparate places and at different times, and began to settle after 1818 in what is now Lawrence County.

The bulk of the group's genealogical claims appear in about 20 undocumented descent reports and family histories prepared by members of the group that illustrate the ancestry of the various members, but they clearly do not demonstrate descent from the historical tribe. In fact, they do just the opposite: they show that the petitioner's claimed ancestors immigrated from the British Isles, France, and Germany over long periods to the American colonies, in particular to Virginia, the Carolinas, and Georgia, and that over time their descendants moved as individuals or small family groups to Tennessee. Neither these descent reports nor other evidence in the record show that the immigrants married into the Cherokee tribe or were otherwise associated with it, or any other tribe. After about 1818, descendants of the immigrants began to appear in what is now Lawrence County, TN, or in Lauderdale and Limestone Counties, AL, situated just south of Lawrence County, TN.

The petitioner did not submit, and OFA did not find, reliable original or derivative records to support the petitioner's claims of Indian descent. The evidence shows that both the male and female ancestors were, in fact, not Indians. For example, one ancestral line claimed by many of the groups' members originated with a family that included a man and his adult sons who migrated from South Carolina to Tennessee before 1818. The earliest records in Tennessee identified the men in this family as free White males over 21 who were paying taxes. They were listed along with their wives and young children as "free Whites" on the 1820 census of Giles County, TN. Likewise, these same men and their wives and children, or widows and orphans in some cases, were "free Whites" on the 1830 census of Lawrence County, TN. The wives or widows who survived past 1850 were all identified as "White," and listed their birthplaces as North Carolina, Virginia, or Tennessee on the 1850 Federal census for Lawrence County. Thus, the evidence does not support the petitioner's claim that the wives (named or unnamed) were Indian descendants who had stayed in Tennessee after 1806 and later married the immigrant non-Indian settlers, or that they escaped the Cherokee removal in the late 1830s. Rather, the evidence shows them as part of the general population of non-Indian settlers coming to Tennessee or Alabama in the mid-19th century.

The petitioner's claims that Robert Messer (1734–1771 of Orange County, NC), was "a Cherokee Indian Chief, although this has not been proven" and that a woman who was born about 1895 in Lawrence County, TN, was "a small woman under 5 feet, said to be of Cherokee Indian blood line" are typical but not exhaustive of the petitioner's undocumented claims of descent from the historical Cherokee Indian tribe. The

Department found no evidence to support such claims. The evidence contemporary to their lives identified them as non-Indians. Nor does the recent decision of the Tennessee Commission on Indian Affairs to grant state recognition to the CBC provide evidence of Indian descent acceptable to the Secretary.

At best, the group's descent reports include unsubstantiated claims that an individual in the family tree was supposed to be an Indian, but does not provide any more than vague family traditions and hearsay. OFA could locate no evidence to corroborate any of their claims. There is no evidence that these men and women from divergent origins were part of the historical Cherokee tribe in North Carolina, descended from it, or came together in a single location before migrating to Tennessee. There is no evidence that the wives, some of whose maiden names are not known, were Cherokee or other Indians; in their own life-times, they were identified as White. None of the petitioner's ancestral families were identified as Indians on any of the Federal censuses of Lawrence County or elsewhere. Not a single one of the known ancestors was on a historical list of Cherokee Indians, nor could they be connected to the historical Cherokee tribe in North Carolina or elsewhere.

The evidence submitted by the petitioner and the evidence located by the Department in the verification process identifies the petitioner's ancestors as non-Indian settlers living as part of the general population. The evidence clearly does not identify the petitioner's ancestors as members of the historical Cherokee Indian tribe or as descendants of the Cherokee Indian tribe or any other Indian tribe.

There is no evidence that the group known since 2007 as the "Central Band of Cherokee," existed by any name prior to its emergence in 2000. The evidence in the record, which includes the petitioner's submissions and OFA's research, shows that Petitioner #227 is a recently formed group of individuals who claim to have Indian ancestry, but who have not documented those claims. The regulations provide that the Department may not acknowledge associations, organizations, corporations, or groups of any character formed in recent times. The petitioner did not submit evidence acceptable to the Secretary, and OFA was not able to find any documents, to validate any of the claims or traditions that the individuals were Indians or Indian descendants. Rather the evidence about the petitioner's ancestors consistently identified them as non-Indians living among the general population. Neither the petitioner nor OFA could document a genealogical link between the petitioner's ancestors and the historical tribe of Cherokee. The evidence in the record clearly establishes that the petitioner does not meet criterion 83.7(e), descent from a historical tribe, Cherokee or otherwise.

The Department proposes to decline to acknowledge Petitioner #227 as an Indian tribe because the evidence clearly establishes that the members of the group do not descend from a historical Indian tribe as required under mandatory criterion 83.7(e). The AS–IA concludes that the CBC clearly does not meet criterion 83.7(e), which satisfies the requirement for issuing a PF under 83.10(e). If, in the response to the PF, the petitioner provides sufficient evidence that it meets criterion 83.7(e) under the reasonable likelihood standard, the Department will undertake a review of the petition under all seven mandatory criteria. If, in the response to the PF, the petitioner does not provide sufficient evidence that it meets criterion 83.7(e) under the reasonable likelihood standard, the AS–IA will issue the final determination based upon criterion 83.7(e) only.

Publication of the Assistant Secretary's PF in the **Federal Register** initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the conclusions in the PF (25 CFR 83.10(i)). Comments should be submitted in writing to the address listed in the **ADDRESSES** section of this notice. Interested or informed parties must provide copies of their submissions to the petitioner. The regulations at 25 CFR 83.10(k) provide petitioner with a minimum of 60 days to respond to any submissions on the PF received from interested and informed parties during the comment period.

At the end of the periods for comment and response on a PF, the AS–IA will consult with the petitioner and interested parties to determine an equitable timeframe for consideration of written arguments and evidence. The Department will notify the petitioner and interested parties of the date such consideration begins. After consideration of the written arguments and evidence rebutting or supporting the PF and the petitioner's response to the comments of interested parties and informed parties, the AS–IA will make a final determination regarding the petitioner's status. The Department will publish a summary of this determination in the **Federal Register**.

Dated: August 6, 2010.

Larry Echo Hawk,

Assistant Secretary–Indian Affairs.

[FR Doc. 2010–20387 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON01000 L12200000.PN0000]

Notice of Proposed Supplementary Rules for Public Lands in Routt County, CO: Emerald Mountain Special Recreation Management Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) Little Snake Field Office is proposing supplementary rules to regulate conduct on specific public lands within Routt County, Colorado. The rules apply to the Emerald Mountain Special Recreation Management Area (SRMA), also known as Emerald Mountain. The BLM has determined these rules are necessary to protect Emerald Mountain's natural resources and to provide for public health and safe public recreation.

DATES: You should submit your comments by September 17, 2010. Comments postmarked or received in person after this date may not be considered in the development of the final supplementary rules.

ADDRESSES: You may submit comments by the following methods: Mail or hand-delivery: Bureau of Land Management, Little Snake Field Office, 455 Emerson Street, Craig, Colorado 81625.

FOR FURTHER INFORMATION CONTACT: David Blackstun, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, (970) 826–5000. Persons who use a telecommunications device for the deaf (TDD) may contact this individual by calling the Federal Information Relay Service at (800) 877–8339, 24 hours a day, seven days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Procedural Matters

I. Public Comment Procedures

You may mail or hand-deliver comments to David Blackstun, Bureau of Land Management, Little Snake Field Office, 455 Emerson Street, Craig, Colorado 81625. Written comments on the proposed supplementary rules

should be specific, be confined to issues pertinent to the proposed supplementary rules, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the supplementary rules comments that the BLM receives after the close of the comment period (See **DATES**), unless they are postmarked or electronically dated before the deadline, or comments delivered to an address other than the address listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the Little Snake Field Office address listed in **ADDRESSES** during regular business hours (7:45 a.m. to 3:45 p.m., Monday through Friday), except Federal holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

Emerald Mountain is a 4,139 acre parcel of public land in Routt County, Colorado surrounded by private and state land. Cow Creek Road (Routt County Road 45) provides legal public access to Emerald Mountain. These supplementary rules would apply to Emerald Mountain SRMA, identified as follows:

Routt County, Colorado

Sixth Principal Meridian

T. 6 N., R. 85 W.,
Secs. 13, 15, 22, 23, 24, 25, 26, 27, 34, 35, and portions thereof.

A map of the area is available at the Little Snake Field Office.

Prior to the BLM's ownership on February 22, 2007, the parcel was owned by the Colorado State Land Board and closed to the general public with the exception of permitted agriculture and hunting. These rules are needed for the protection of the SRMA's recreational and educational opportunities, wildlife resources, historical agricultural use, and to provide for the health and safety of the public and neighboring residents.

Emerald Mountain is managed as two adjoining SRMAs or Zones. Zone 1 is managed under a destination recreation-tourism market strategy. The strategy targets Steamboat Springs area visitors, including local residents, wanting to participate in strenuous and challenging mountain biking and Nordic skiing on primitive trails that are close to town. Zone 2 is managed under a community recreation market strategy, primarily for Steamboat Springs area residents to engage in wildlife viewing, hiking, and horseback riding in a backcountry setting. Both zones are open to hunting. Other recreation activities are allowable to the extent they are compatible with the primary targeted activities. Both areas are closed to recreational motorized use.

These proposed supplementary rules implement the management decisions made in the Emerald Mountain Land Exchange Environmental Assessment/Plan Amendment approved October 2006; the Recreation Activity Management Plan and Transportation Management Plan (RAMP/TMP Phase 1) approved June 2007; and the Emerald Mountain SRMA Implementation Plan Amendment approved December 2008, which further defines the proposed supplementary rules. These documents are available for review at the Little Snake Field Office. The Emerald Mountain SRMA Implementation Plan Amendment included considerable public involvement and review, including six public meetings held at three separate locations.

Meetings were announced on the BLM Web site at: *http://www.co.blm.gov/lsra/emerald_mtn/em.html.* The BLM also sent 74 meeting notices to various groups, organizations, and individuals to solicit public participation and comments. The Emerald Mountain Land Exchange Environmental Assessment/Plan Amendment and the RAMP/TMP Phase 1 also received public participation and comments for the management of Emerald Mountain.

The authority for these supplementary rules is set forth at Sections 303 and 310 of the Federal Land Policy and Management Act, 43 U.S.C. 1733 and 1740, and 43 CFR 8365.1–6. These proposed supplementary rules would govern hunting, camping, mechanized transport, motorized vehicle travel, possession of glass containers, and fire maintenance at the Emerald Mountain SRMA.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not a significant regulatory action and are not subject to review by Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an annual effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. These supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These rules would merely establish rules of conduct for public use of a limited area of public lands in order to protect natural resources and public health and safety.

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the supplementary rules clearly stated?

(2) Do the supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the supplementary rules (grouping and order or sections, use of headings, paragraphing, *etc.*) aid or reduce their clarity?

(4) Would the supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the supplementary rules? How could this description be more helpful in making the supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act of 1969 (NEPA)

The BLM prepared two environmental assessments (EA CO–100–2006–089 and EA CO–100–2007–057) and has determined that these supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). The supplementary rules would merely establish rules of conduct for public use of a limited area of public lands in order to protect natural resources and the health and safety of the public. Although the area would be open to recreational uses, such as permitted hunting, camping would be prohibited for consistency with the management objectives identified through the scoping process for the Emerald Mountain Land Exchange EA/Plan Amendment and preferred Alternative 2—Modified Use. The BLM has placed both EAs and Findings of No Significant Impact on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section. These EAs constitute the BLM's compliance with the requirements of NEPA.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or proportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These rules would establish rules of conduct for public use of a limited area of public lands. Therefore, the BLM has determined under the RFA that these rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These supplementary rules are not a "major rule" as defined at 5 U.S.C. 804(2). These rules establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind. These rules would not result in an annual effect on the economy of $100 million or more, in a major increase in costs or prices, or in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would impose restrictions on certain recreational activities on certain public lands to protect natural resources, the environment, human health, and safety.

Unfunded Mandates Reform Act

These supplementary rules would not impose an unfunded mandate on state, local, or tribal governments, in the aggregate, or the private sector, of more than $100 million per year; nor would these supplementary rules have a significant or unique effect on state, local, or tribal governments, or the private sector. The supplementary rules would have no effect on state, local, or tribal governments and do not impose any requirements on any of these entities. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The supplementary rules would not represent a government action capable of interfering with constitutionally protected property rights. The supplementary rules would not address property rights in any form, and do not cause the impairment of one's property rights. Therefore, the BLM has determined that the supplementary rules would not cause a "taking" of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The supplementary rules 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. The shooting restrictions in the supplementary rules do not apply to hunting with a state hunting license. Therefore, in accordance with Executive Order 13132, the BLM has determined that the supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Colorado State Office of the BLM has determined that these supplementary rules would not unduly burden the judicial system and the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM initiated consultation with the following Native American tribes regarding the proposed Emerald Mountain Land Exchange project in September 2004: Southern Ute Tribe, Ute Mountain Ute Tribal Council, Colorado Commission of Indian Affairs, and the Uintah and Ouray Tribal Council. The tribes did not identify any concerns regarding traditional or religious cultural properties in the Emerald Mountain Special Recreation Management Area. These supplementary rules would not affect Indian land, resources, or religious rights.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These proposed supplementary rules do not comprise a significant energy action. The rules would not have a significant adverse effect on energy supplies, production, or consumption.

Paperwork Reduction Act

These supplementary rules would not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Author

The principal author of these proposed supplementary rules is David E. Blackstun, Acting Field Manager, Little Snake Field Office, Bureau of Land Management.

For the reasons stated in the Preamble, and under the authority of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1733 and 1740, and 43 CFR 8365.1–6, the Colorado State Director, Bureau of Land Management, proposes the following supplementary rules for public lands within the Emerald Mountain Special Recreation Management Area:

Supplementary Rules for the Emerald Mountain Special Recreation Management Area

Definitions

Camping means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking a motor vehicle, motor home or trailer, or mooring of a vessel for the apparent purpose of overnight occupancy.

Designated Trail means a trail developed, maintained, and explicitly identified for public use by the BLM. All designated trails will be identified by a combination of trailhead maps and on-site signage listing allowable uses.

Mechanized Transport means any vehicle, device, or contrivance for moving people or material in or over land, water, snow, or air that has moving parts, including, but not limited to, bicycles, game carriers, carts, and wagons. The term does not include wheelchairs, horses or other pack stock, skis, or snowshoes.

Motorized Vehicle means any self-propelled device in, upon, or by which any person or property is or may be propelled, moved, or drawn, including, but not limited to, cars, trucks, vans, motorcycles, all-terrain vehicles, motor-driven cycles, motorized scooters, motorized skateboards, and snowmobiles. "Motorized vehicle" does not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

Firearm or Other Projectile Shooting Device means all firearms, air rifles, pellet and BB guns, spring guns, bows and arrows, slings, paint ball markers, other instruments that can propel a projectile (such as a bullet, dart, or pellet by combustion, air pressure, gas pressure, or other means), or any instrument that can be loaded with and fire blank cartridges.

Unless otherwise authorized by the Field Manager, the following rules apply within the Emerald Mountain SRMA boundary:

1. Camping and overnight use is prohibited. The area is closed between sunset and sunrise, except for lawful hunting licensed periods and for retrieval of legally taken game. Hunters are not allowed to camp overnight.

2. No mechanized transport activities are allowed within Zone 2, including game carts.

3. No person or persons shall discharge a firearm or other projectile shooting device of any kind, including those used for target shooting or paintball, except licensed hunters in pursuit of game during the proper season with appropriate firearms, as defined by the Colorado Division of Wildlife (CDOW), Section 33–1–102, C.R.S. Article IV #004: Manner of Taking Wildlife.

4. Zone 2 and trails south of Ridge Trail in Zone 1 are closed to the public from December 1 to June 30 to protect wintering and calving elk.

5. Non-working dogs must be on a six-foot or less hand-held leash at all times. Working dogs are allowed off-leash only during legal hunting periods when controlled by someone legally hunting, or when working as cattle dogs.

6. Fires are not allowed except at the trailheads in a mechanical stove or other appliance fueled by gas and equipped with a valve that allows the operator to turn the flame on and off.

7. Possession of glass containers is prohibited.

8. The entire area is designated closed to motorized vehicle travel, with the exception of Cow Creek Road (Routt County Road 45). The closure excludes:

- Any military, fire, emergency, or law enforcement vehicle being used for emergency purposes; and
- Any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved (e.g., grazing permittee, CDOW, Routt County personnel).

Official use means use by an employee, agent, or designated representative of the Federal government or one of its contractors, in the course of his employment, agency, or representation.

Exemptions

The following persons are exempt from these supplementary rules: any Federal, state, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force performing an official duty; and persons, agencies, municipalities, or companies holding an existing special-use permit inside the SRMA and operating within the scope of their permit.

Penalties

Under Section 303(a) of FLPMA, 43 U.S.C. 1733(a), if you violate any of these supplementary rules on public lands within the boundaries established in the rules, you may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Helen M. Hankins,

State Director.

[FR Doc. 2010–20346 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[SDM 100347]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA), Forest Service, has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior withdraw 2,387.22 acres of National Forest System land from mining in order to protect the unique cave resources in the area adjacent to Jewel Cave National Monument. The land has been and will remain open to such other forms of disposition as may by law be made of National Forest System land and to mineral leasing. This notice also gives the public an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by November 16, 2010.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor's Office, Black Hills National Forest, 1019 North 5th Street, Custer, South Dakota 57730, or the Montana State Director (MT–924), BLM, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Valerie Hunt, U.S. Forest Service, Rocky Mountain Region, 740 Simms Street, Golden, Colorado 80401, 303–275–5071, or Sandra Ward, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5052.

SUPPLEMENTARY INFORMATION: The USDA Forest Service has filed an application with the BLM, pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, to withdraw the following-described National Forest System land within the Black Hills National Forest for a period of 20 years from location or entry under the United States' mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights:

Black Hills National Forest

Black Hills Meridian

T. 3 S., R. 2 E.,
Sec. 34, S½S½.
T. 4 S., R. 2 E.,
Sec. 2, lot 4, SW¼NW¼, SW¼ excluding that portion of the NE¼NE¼SW¼ east

of U.S. Highway 16, and those portions of lot 3, SW¼NE¼, and SE¼NW¼ west of U.S. Highway 16;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, S½N½.
T. 4 S., R. 3 E.,
Sec. 6, lots 6 and 7, E½SW¼, and W½SE¼;
Sec. 7, lots 1 and 2, W½NE¼, and E½NW¼.

The area described contains 2,387.22 acres in Custer County.

The purpose of the proposed withdrawal is to protect the unique cave resources in the area adjacent to the Jewel Cave National Monument.

The use of a right-of-way or interagency or cooperative agreement would not adequately protect this area.

There are no suitable alternative sites available. The Jewel Cave formations are unique to this area and follow the local geology.

No water will be needed to fulfill the purpose of the requested withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Black Hills National Forest, or the BLM Montana State Director at the addresses noted above.

Records related to the application, as well as comments, including names and street addresses of respondents, will be available for public review at the BLM Montana State Office, or the Forest Supervisor's Office, Black Hills National Forest at the addresses stated above during regular business hours.

Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organization or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the BLM Montana State Director by November 16, 2010.

Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and at least one local newspaper at least 30 days before the scheduled date of the meeting.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated from location or entry under the United States mining laws, unless the application is denied or canceled or the withdrawal is approved prior to that date. The land will remain open to other uses within the statutory authority pertinent to National Forest System lands and subject to discretionary approval.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

(Authority: 43 CFR 2310.3–1(b))

Cynthia Staszak,

Chief, Branch of Land Resources.

[FR Doc. 2010–20343 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR–936000–L14300000–ET0000; HAG–10–0113; WAOR–16905]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service (USFS) has filed an application with the Bureau of Land Management (BLM) that proposes to extend the duration of Public Land Order (PLO) No. 6870 for an additional 20-year term. PLO No. 6870 withdrew approximately 1,400 acres of National Forest System land from mining in order to protect scientific and ecological values at the Steamboat Mountain Research Natural Area. The withdrawal created by PLO No. 6870 will expire on August 27, 2011, unless extended. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by November 16, 2010.

ADDRESSES: Comments and meeting requests should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Susan Daugherty, USFS Pacific Northwest Region, (503) 808–2416, or Charles R. Roy, BLM Oregon/Washington State Office, (503) 808–6189.

SUPPLEMENTARY INFORMATION: The USFS has filed an application requesting that the Secretary of the Interior extend for an additional 20-year term PLO No. 6870 (56 FR 42541 (1991)), which withdrew 1,400 acres in Skamania County, Washington, from location and entry under the United States mining laws (30 U.S.C. ch. 2), subject to valid existing rights. PLO No. 6870 is incorporated herein by reference.

The purpose of the proposed withdrawal extension is to continue the protection of the scientific and ecological research values at the Steamboat Mountain Research Natural Area.

The use of a right-of-way, interagency agreement, or cooperative agreement would not provide adequate protection.

The USFS would not need to acquire water rights to fulfill the purpose of the requested withdrawal extension.

Records related to the application may be examined by contacting Charles R. Roy at the above address or phone number.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM Oregon/Washington State Director at the address indicated above.

Comments, including names and street addresses of respondents, will be available for public review at the address indicated above during regular business hours.

Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organization or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the BLM State Director at the address indicated above by November 16, 2010. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and in at least one local newspaper not less than 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

(Authority: 43 CFR 2310.3–1)

Fred O'Ferrall,

Chief, Branch of Land, Mineral, and Energy Resources.

[FR Doc. 2010–20341 Filed 8–17–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–66335; LLOR936000; L54200000.PE000LVDIH10H0640; HAG–10–0306]

Notice of Realty Action: Application for Recordable Disclaimer of Interest; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Port of Cascade Locks has filed an application with the Bureau of Land Management (BLM) requesting a Recordable Disclaimer of Interest from the United States for the property the Port has acquired from Hood River County, Oregon. The nature of the cloud on the title the applicant wishes to resolve is a recorded Disclaimer issued by the Department of the Interior General Land Office for the subject land in 1920. Issuance of this recordable disclaimer of interest would remove a cloud on the title to the land.

DATES: Interested parties may submit written comments regarding the Recordable Disclaimer of Interest on or before November 16, 2010.

ADDRESSES: Mail all written comments to Cathie Jensen, Acting Chief, Branch of Land, Mineral, and Energy Resources, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208. Only written comments submitted via the U.S. Postal Service or other delivery service, or hand delivered to the BLM State Office, will be considered properly filed. Electronic mail, facsimile, or telephone comments will not be considered properly filed.

FOR FURTHER INFORMATION CONTACT: Jenny Liang, Land Law Examiner, (503) 808–6299. Additional information pertaining to this application can be reviewed in case file OR–66335 located in the BLM Oregon State Office at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), and the regulations contained in 43 CFR subpart 1864, the Port of Cascade Locks filed an application for a Recordable Disclaimer of Interest for a portion of lands described as follows:

Willamette Meridian

T. 3 N., R. 8 E.,
sec. 33, SE¼;SE¼;, that portion lying north of The Dalles-Sandy Wagon Road.

The parcel described contains 22.5 acres, more or less, in Hood River County, Oregon.

The subject land was mentioned in a 1920 recorded Disclaimer issued by the Department of the Interior, General Land Office. The Disclaimer stated that the United States does not claim any right, title or interest in or to the subject land under the attempted reconveyances, or based on the rejection of a Forest Lieu Selection. Since the 1920 Disclaimer did not cite to an authority for issuance of said document the title company would not recognize the Disclaimer. A valid disclaimer, if issued, will confirm that the United States has no valid interest in the subject land.

The United States Department of Agriculture, Forest Service is anticipating exchanging lands with the Port pursuant to Section 1206(b) of the Omnibus Public Land Management Act of 2009 (123 Stat. 1019), and the subject land must be in an insurable condition. The United States has no claim to or interest in the land described and issuance of a Recordable Disclaimer would remove a cloud on the title to the land and a potential barrier to the exchange.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Oregon State Office at the address above, during regular business hours, Monday through Friday, except Federal holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any adverse comments will be reviewed by the BLM Oregon State Director. In the absence of any adverse comments, a Disclaimer of Interest may be approved stating that the United States does not have a valid interest in the described land.

Authority: 43 CFR subpart 1864.2(a)

Cathie Jensen,

Acting Chief, Branch of Land, Mineral, and Energy Resources.

[FR Doc. 2010–20332 Filed 8–17–10; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–125 (Third Review)]

Potassium Permanganate From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on potassium permanganate from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review 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 antidumping duty order on potassium permanganate from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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:* August 6, 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 at 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:

Background. On August 6, 2010, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 23298, May 3, 2010) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on September 2, 2010, and made available to persons on the Administrative Protective Order service list for this review. 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 review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before September 8, 2010 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by September 8, 2010. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, 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 review must be served on all other parties to the review (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.

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: August 11, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–20355 Filed 8–17–10; 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 response submitted by Carus 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 Nos. 731–TA–1082 and 1083 (Review)]

Chlorinated Isocyanurates From China and Spain

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the antidumping duty orders on chlorinated isocyanurates from China and Spain.

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 antidumping duty orders on chlorinated isocyanurates from China and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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: August 6, 2010.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), 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 August 6, 2010, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 23303, May 3, 2010) 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 September 2, 2010, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter,

[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.

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 determination the Commission should reach in the reviews. Comments are due on or before September 8, 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 September 8, 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.

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: August 12, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–20349 Filed 8–17–10; 8:45 am]

BILLING CODE 7020–02–P

[2] The Commission has found the joint response submitted by Clearon Corp. and Occidental Chemical Corp. to be adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on July 13, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Korea Cyber University (KCU), Seoul, Republic of Korea; Moodlerooms, Baltimore, MD; Ocean County College, Toms River, NJ; New York City Department of Education, New York, NY; and Ucompass.com, Inc., Tallahassee, FL, have been added as parties to this venture.

Also, Tekville.com, Inc., Seoul, Republic of Korea; 4C Soft, Inc., Seoul, Republic of Korea; and DaulSoft, Seoul, Republic of Korea, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on April 26, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 4, 2010 (75 FR 31816).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–20220 Filed 8–17–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on July 13, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Allergan Sales, LLC, Irvine, CA; Bayer Schering Pharma AG, Berlin, GERMANY; Syapse, Palo Alto, CA; and Merck KGaA, Darmstadt, GERMANY, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on April 22, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 4, 2010 (75 FR 31815).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–20225 Filed 8–17–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on July 8, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Spectracom Corp., Rochester, NY; and One Stop Systems, Inc., Escondido, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on April 15, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 20, 2010 (75 FR 28294).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–20223 Filed 8–17–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of the ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–2443 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed information collection requirements are necessary for the proper performance of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collections of information on those who are to respond including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Presence Sensing Device Initiation (PSDI) (29 CFR 1910.21(h)).

OMB Control Number: 1218–0147.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 1.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Costs Burden (excludes hourly wage costs): $0.

Description: A number of paragraphs in the Standard contain paperwork requirements. These requirements include: Certifying brake-monitor adjustments, alternatives to photo-electric presence sensing devices (PSDs), safety-system design and installation, and employee training; annual recertification of safety systems; establishing and maintaining the original certification and validation records, as well as the most recent recertification and revalidation records; affixing labels to test rods and to certified and recertified presses; and notifying an OSHA-recognized third-party validation organization when a safety system component fails, the employer modifies the safety system, or a point-of-operation injury occurs. For additional information, see related notice published in the **Federal Register** on March 16, 2010, (Vol. 75 FR 12570).

Dated: August 12, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–20380 Filed 8–17–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of the ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts Thomas on 202–693–2443 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication

in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

• Evaluate whether the proposed information collection requirements are necessary for the proper performance of the Agency, including whether the information will have practical utility;

• Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collections of information on those who are to respond including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Additional Requirements for Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)).

OMB Control Number: 1218–0237.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 1.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Costs Burden (excludes hourly wage costs): $0.

Description: *Displaying the Minimum Safe Distance (§ 1910.126(g)(4))*—This provision requires the employer to determine how far away goods being electrostatically deteared should be separated from electrodes or conductors. This distance is called the "safe distance." This minimum distance must be displayed conspicuously on a sign located near the equipment. OSHA has determined that where electrostatic equipment is being used, the information has already been ascertained and that the "safe distance" has been displayed on a sign in a permanent manner.

For additional information, see related notice published in the **Federal Register** on April 5, 2010, (Vol. 75, page 17162).

Dated: August 12, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–20381 Filed 8–17–10; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–089)]

NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of 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: Thursday, September 16, 8:30 a.m. to 5 p.m., and Friday, September 17, 2010, 8:30 a.m. to 3 p.m. EDT.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 3H46 and 5H45, respectively, Washington, DC 20546.

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:

—Astrophysics Division Update
—2010 Astronomy and Astrophysics Decadal Survey
—Update on Select Astrophysics Missions
—Update on Research and Analysis Program

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Dated: August 12, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–20335 Filed 8–17–10; 8:45 am]

BILLING CODE P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that five meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending times are approximate):

Arts Education (application review): September 14–15, 2010 in Room 714. A portion of this meeting, from 4:15 p.m. to 4:45 p.m. on September 15th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on September 14th, and from 9 a.m. to 4:15 p.m and from 4:45 p.m. to 5:30 p.m. on September 15th, will be closed.

Literature (application review): September 14–16, 2010 in Room 716. A portion of this meeting, from 12:30 p.m. to 1 p.m. on September 16th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 6:30 p.m. on September 14th and 15th, and from 9 a.m. to 12:30 p.m. and 1 p.m. to 4 p.m. on September 16th, will be closed.

Arts Education (application review): September 20–24, 2010 in Room 716. A portion of this meeting, from 9 a.m. to 10 a.m. on September 23rd, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on September 20th–22nd,

from 10 a.m. to 6 p.m on September 23rd, and from 9 a.m. to 2 p.m. on September 24th, will be closed.

Theater (application review): September 27, 2010 in Room 730. This meeting, from 9 a.m. to 4:30 p.m., will be closed.

Arts Education (application review): September 29–30, 2010 in Room 716. A portion of this meeting, from 1 p.m. to 1:45 p.m. on September 30th, will be open to the public for a policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on September 29th, and from 9 a.m. to 1 p.m and from 1:45 p.m. to 2:30 p.m. on September 30th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of November 10, 2009, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need any accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 13, 2010.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2010–20377 Filed 8–17–10; 8:45 am]

BILLING CODE 7537–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection(s) Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collections are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden for the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and Purpose of Information Collection

Public Service Pension Questionnaires; OMB 3220–0136

Public Law 95–216 amended the Social Security Act of 1977 by providing, in part, that spouse or survivor benefits may be reduced when the beneficiary is in receipt of a pension based on employment with a Federal, State, or local governmental unit. Initially, the reduction was equal to the full amount of the government pension.

Public Law 98–21 changed the reduction to two-thirds of the amount of the government pension. Public Law 108–203 amended the Social Security Act by changing the requirement for exemption to public service offset, that Federal Insurance Contributions Act (FICA) taxes be deducted from the public service wages for the last 60 months of public service employment, rather than just the last day of public service employment.

Sections 4(a)(1) and 4(f)(1) of the Railroad Retirement Act (RRA) provides that a spouse or survivor annuity should be equal in amount to what the annuitant would receive if entitled to a like benefit from the Social Security Administration. Therefore, the public service pension (PSP) provisions apply to RRA annuities. RRB Regulations pertaining to the collection of evidence relating to public service pensions or worker's compensation paid to spouse or survivor applicants or annuitants are found in 20 CFR 219.64c.

The RRB utilizes Form G–208, Public Service Pension Questionnaire, and Form G–212, Public Service Monitoring Questionnaire, to obtain information used to determine whether an annuity reduction is in order. Completion of the forms is voluntary. However, failure to complete the forms could result in the nonpayment of benefits. One response is requested of each respondent.

The RRB proposes a non-burden impacting editorial change for clarification purposes to Form G–208 and no changes to Form G–212. The completion time for the G–208 is estimated at 16 minutes and the G–212 is estimated at 15 minutes. The RRB estimates that approximately 70 Form G–208's and 1,100 Form G–212's are completed annually.

2. Title and Purpose of Information Collection

Self-Employment and Substantial Service Questionnaire; OMB 3220–0138

Section 2 of the Railroad Retirement Act (RRA) provides for payment of annuities to qualified employees and their spouses. In order to receive an age and service annuity, Section 2(e)(3) states that an applicant must stop all railroad work and give up any rights to return to such work. However, applicants are not required to stop non-railroad work or self-employment.

The RRB considers some work claimed as "self-employment" to actually be employment for an employer. Whether the RRB classifies a particular activity as self-employment or as work for an employer depends upon the circumstances of each case. These circumstances are prescribed in 20 CFR part 216.

Under the 1988 amendments to the RRA, an applicant is no longer required to stop work for a "Last Pre-Retirement Nonrailroad Employer"(LPE). However, section 2(f)(6) of the RRA requires that a portion of the employee's Tier II benefit and supplemental annuity be deducted for earnings from a "LPE" employer.

"LPE" is defined as the last person, company or institution with whom the employee or spouse applicant was employed concurrently with, or after, the applicant's last railroad employment and before their annuity beginning date. If a spouse never worked for a railroad, the LPE employer is the last person for whom he or she worked.

The RRB utilizes Form AA–4, *Self-Employment and Substantial Service Questionnaire,* when an applicant claims to be self-employed to obtain information needed to determine if the applicant's work is LPE, railroad service or self-employment. If the work is self-employment, the questionnaire identifies any months in which the applicant did not perform substantial service. One response is requested of each respondent. Completion is voluntary. However, failure to complete

the form could result in the nonpayment of benefits.

The RRB estimates the completion time for the AA–4 is estimated at between 40 and 70 minutes and that approximately 600 AA–4s are completed annually. The RRB proposes no changes to Form AA–4.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Patricia A. Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Patricia.Henaghan@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 2010–20549 Filed 8–17–10; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding two (2) Information Collection Requests (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

1. *Title and purpose of information collection:*

Employer Service and Compensation Reports, 3220–0070.

Section 2(c) of the Railroad Unemployment Insurance Act (RUIA) specifies the maximum normal unemployment and sickness benefits that may be paid in a benefit year. Section 2(c) further provides for extended benefits for certain employees and for beginning a benefit year early for other employees. The conditions for these actions are prescribed in 20 CFR part 302.

All information about creditable railroad service and compensation needed by the RRB to administer Section 2(c) is not always available from annual reports filed by railroad employers with the RRB (OMB 3220–0008). When this occurs, the RRB must obtain supplemental information about service and compensation. The RRB utilizes Form(s) UI–41, Supplemental Report of Service and Compensation, and UI–41a, Supplemental Report of Compensation, to obtain the necessary information. Our ICR describes the information we seek to collect from the public. Completion of the forms is mandatory. One response is required from a respondent. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (75 FR 21370 on April 23, 2010) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employer Service and Compensation Reports.

OMB Control Number: 3220–0070.

Form(s) submitted: UI–41, UI–41a.

Type of request: Extension without change of a previously approved collection.

Affected public: Business or other for-profit.

Abstract: The reports obtain the employee's service and compensation for a period subsequent to those already on file and the employee's base year compensation. The information is used to determine the entitlement to and the amount of benefits payable.

Changes Proposed: The RRB proposes no changes to Form(s) UI–41 and UI–41a.

The burden estimate for the ICR is as follows:

Estimated annual number of respondents: 30.

Total annual responses: 3,000.

Total annual reporting hours: 400.

2. *Title and Purpose of Information Collection*

Supplement to Claim of Person Outside United States; 3220–0155.

Under the Social Security Amendments of 1983 (Pub. L. 98–21), which amended Section 202(t) of the Social Security Act, the Tier I or the O/M (overall minimum) portion of an annuity and Medicare benefits payable under the Railroad Retirement Act to certain beneficiaries living outside the U.S., may be withheld effective January 1, 1985. The benefit withholding provision of Public Law 98–21 applies to divorced spouses, spouses, minor or disabled children, students, and survivors of railroad employees who (1) Initially became eligible for Tier I amounts, O/M shares, and Medicare benefits after December 31, 1984; (2) are not U.S citizens or U.S. nationals; and (3) have resided outside the U.S for more than six consecutive months starting with the annuity beginning date. The benefit withholding provision does not apply, however to a beneficiary who is exempt under either a treaty obligation of the U.S., in effect on August 1, 1956, or a totalization agreement between the U.S. and the country in which the beneficiary resides, or to an individual who is exempt under other criteria specified in Public Law 98–21. RRB Form G–45, Supplement to Claim of Person Outside the United States, is currently used by the RRB to determine applicability of the withholding provision of Public Law 98–21. Our ICR describes the information we seek to collect from the public. Completion of Form G–45 is required to obtain or retain benefits. One response is required of each respondent. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (75 FR 21685 & 21686 on April 26, 2010) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Supplement to Claim of Person Outside the United States.

OMB Control Number: 3220–0155.

Form(s) submitted: G–45.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or households.

Abstract: Under Public Law 98–21, the Tier I or overall minimum portion of an annuity and Medicare benefits payable under the Railroad Retirement Act to certain beneficiaries living outside the United States may be withheld. The collection obtains the information needed by the Railroad Retirement Board to implement the benefit withholding provisions of Public Law 98–21.

Changes Proposed: The RRB proposes no changes to Form G–45.

The burden estimate for the ICR is as follows:

Estimated annual number of respondents: 100.

Total annual responses: 100.

Total annual reporting hours: 17 .

For Further Information Contact: Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Patricia A. Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Patricia.Henaghan@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 2010–20475 Filed 8–17–10; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12242 and # 12243]

Kentucky Disaster Number KY–00035

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Kentucky (FEMA–1925–DR), dated 07/23/2010.

Incident: Severe storms, flooding, and mudslides.

Incident Period: 07/17/2010 through 07/30/2010.

Effective Date: 08/12/2010.

Physical Loan Application Deadline Date: 09/21/2010.

EIDL Loan Application Deadline Date: 04/25/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Kentucky, dated 07/23/2010 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Madison, Mason, Rowan.

Contiguous Counties: (Economic Injury Loans Only):

Kentucky: Bath, Bracken, Clark, Estill Fayette, Garrard, Jackson, Jessamine, Menifee, Morgan, Robertson, Rockcastle.

Ohio: Brown.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–20510 Filed 8–17–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12244 and #12245]

Kentucky Disaster Number KY–00036.

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kentucky (FEMA—1925—DR), dated 07/23/2010.

Incident: Severe storms, flooding, and mudslides.

Incident Period: 07/17/2010 through 07/30/2010.

DATES: *Effective Date:* 08/12/2010.

Physical Loan Application Deadline Date: 09/21/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 04/25/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Kentucky, dated 07/23/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Madison.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–20511 Filed 8–17–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation S–AM; SEC File No. 270–548; OMB Control No. 3235–0609.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension of the previously approved collection of information provided for in Regulation S–AM (17 CFR Part 248, Subpart B), under the Fair and Accurate Credit Transactions Act of 2003 (Pub. L. 108–159, Section 214, 117 Stat. 1952 (2003)) ("FACT Act"), the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), and the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*).

Regulation S–AM implements the requirements of Section 214 of the FACT Act as applied to brokers, dealers, and investment companies, as well as investment advisers and transfer agents that are registered with the Commission (collectively, "Covered Persons"). As directed by Section 214 of the FACT Act, before a receiving affiliate may make marketing solicitations based on the communication of certain consumer financial information from a Covered Person, the Covered Person must provide a notice to each affected individual informing the individual of his or her right to prohibit such marketing. The regulation potentially applies to all of the approximately 22,106 Covered Persons registered with the Commission, although only approximately 15,474 of them have one or more corporate affiliates, and the regulation would require only approximately 2,211 of them to provide consumers with notice and an opt-out opportunity.

The Commission staff estimates that there are approximately 12,021 Covered Persons having one or more affiliates, and that they would require an average one-time burden of 1 hour to review affiliate marketing practices, for a total of 12,021 hours, at a total staff cost of approximately $2,524,410. The staff also estimates that approximately 2,147 Covered Persons would be required to provide notice and opt-out opportunities to consumers, and would incur an average first-year burden of 18 hours in doing so, for a total estimated first-year burden of 38,646 hours, at a total staff cost of approximately $10,279,836. With regard to continuing notice burdens, the staff estimates that each of the approximately 2,147 Covered Persons required to provide notice and opt-out opportunities to consumers would incur a burden of approximately 4 hours per year to create and deliver notices to new consumers and record any opt outs that are received on an ongoing basis, for a total of 8,588 hours, at a total staff cost of approximately $489,516 per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be submitted (i) in writing to: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by an e-mail to: *Shagufta_Ahmed @omb.eop.gov;* and (ii) in writing to: Charles Boucher Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312, or by e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 11, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20374 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation 12B, OMB Control No. 3235–0062, SEC File No. 270–70

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Regulation 12B (17 CFR 240.12b–1✖12b–37) includes rules governing all registration statements and reports under Sections 12(b), 12(g), 13(a), and 15(d) (15 U.S.C. 78l(b), 78l(g), 78m(a) and 78o(d)) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The purpose of the regulation is set forth guidelines for the uniform preparation of Exchange Act documents. All information is provided to the public for review. The information required is filed on occasion and is mandatory. Regulation 12B is assigned one burden hour for administrative convenience because the regulation simply prescribes the disclosure that must appear in other filings under the federal securities laws.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 11, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20373 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form S–6, SEC File No. 270–181, OMB Control No. 3235–0184.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is "Form S–6 (17 CFR 239.16), for Registration under the Securities Act of 1933 of Securities of Unit Investment Trusts Registered on Form N–8B–2 (17 CFR 274.13)." Form S–6 is a form used for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") of securities of any unit investment trust ("UIT") registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("Investment Company Act") on Form N–8B–2.[1] Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities.

Section 10(a)(3) of the Securities Act (15 U.S.C. 77j(a)(3)) provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use. As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N–8B–2 file post-effective amendments to their registration statements on Form S–6 in order to update their prospectuses.

The purpose of Form S–6 is to meet the filing and disclosure requirements of the Securities Act and to enable filers to provide investors with information

[1] Form N–8B–2 is the form used by UITs other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor to register under the Investment Company Act pursuant to Section 8 thereof.

necessary to evaluate an investment in the security. This information collection differs significantly from many other federal information collections, which are primarily for the use and benefit of the collecting agency. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission estimates that there are approximately 938 initial registration statements filed on Form S–6 annually and approximately 1,116 annual post-effective amendments to previously effective registration statements filed on Form S–6. The Commission estimates that the hour burden for preparing and filing an initial registration statement on Form S–6 or for preparing and filing a post-effective amendment to a previously effective registration statement filed on Form S–6 is 35 hours. Therefore, the total burden of preparing and filing Form S–6 for all affected UITs is 71,890 hours.

The information collection requirements imposed by Form S–6 are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox @sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 11, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20371 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 15, OMB Control No. 3235–0167, SEC File No. 270–170.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Form 15 (17 CFR 249.323) is a certification of termination of a class of security under Section 12(g) or notice of suspension of duty to file reports pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). All information is provided to the public for review. We estimate that approximately 3,000 issuers file Form 15 annually and it takes approximately 1.5 hours per response to prepare for a total of 4,500 annual burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 11, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20369 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 15F, OMB Control No. 3235–0621, SEC File No. 270–559.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Form 15F (17 CFR 249.324) is filed by a foreign private issuer when terminating its Exchange Act reporting obligations under Exchange Act Rule 12h-6 (17 CFR 240.12h-6). Form 15F requires a filer to disclosed information that helps investors understand the foreign private issuer's decision to terminate its Exchange Act reporting obligations and assist Commission staff in determining whether the filer is eligible to terminate its Exchange Act reporting obligations pursuant to Rule 12h-6. Compared to Exchange Act Rules 12g-4 (17 CFR 240.12g-4) and 12h-3 (17 CFR 240.12h-3), Rule 12h-6 makes it easier for a foreign private issuer to exit the Exchange Act registration and reporting regime when there is relatively little U.S. investor interest in its securities. Rule 12h-6 is intended to remove a disincentive for foreign private issuers to register initially their securities with the Commission by lessening their concern that the Exchange Act registration and reporting system is difficult to exit once an issuer joins it. The information provided to the Commission is mandatory and all information is made available to the public upon request. We estimate that Form 15F takes approximately 30 hours to prepare and is filed by approximately 300 issuers. We estimate that 25% of the 30 hours per response (7.5 hours per response) is prepared by the filer for a total annual reporting burden of 2,250 hours (7.5 hours per response × 300 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to:

Shagufta_Ahmed@omb.eop.gov; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 11, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20370 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Four Crystal Funding, Inc.; Order of Suspension of Trading

August 16, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Four Crystal Funding, Inc. ("Four Crystal") because it has not filed any periodic reports since the period ended June 30, 2006. Four Crystal is quoted on the Pink Sheets operated by Pink OTC Markets, Inc. under the ticker symbol FCRS.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company, and any equity securities of any entity purporting to succeed to this issuer.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company, and any equity securities of any entity purporting to succeed to this issuer, is suspended for the period from 9:30 a.m. EDT on August 16, 2010, through 11:59 p.m. EDT on August 27, 2010.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–20548 Filed 8–16–10; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION (Release No. 34–62694;

[File No. SR–EDGA–2010–11]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA Rule 3.13

August 11, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2010, the EDGA Exchange, Inc. (the "Exchange" or the "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend EDGA Rule 3.13 to conform it with FINRA Rule 5230 in order (i) for FINRA to effectively examine for the rule pursuant to a Rule 17d–2 agreement that the Exchange has entered into with FINRA; and (ii) to modernize its terms and clarify its scope. The text of the proposed rule change is available on the Exchange's Web site at *http://www.directedge.com,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

EDGA Exchange, Inc. has entered into a Rule 17d–2 [3] agreement with FINRA pursuant to which FINRA surveils violations of rules in common between FINRA and EDGA. This agreement covers common members of EDGA and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) Examination of common members of EDGA and FINRA for compliance with federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of common members of EDGA and FINRA for violations of federal securities laws, rules or regulations, or Exchange rules that the Exchange has certified as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common members with the federal securities laws, rules and regulations, and the rules of EDGA that the Exchange has certified as identical or substantially similar to FINRA rules.[4]

EDGA Rule 3.13 is identical to NASD Rule 3330, which was subsequently re-numbered and amended to be FINRA Rule 5230.[5] FINRA, however, recently incorporated additional exceptions to this rule in order to "modernize its terms and clarify its scope." [6] After a consideration of the merits of such rule change, including the benefits of ensuring that Rule 3.13 would continue to be a common rule covered under the Exchange's Rule 17d–2 agreement with FINRA, EDGA is proposing to amend its Rule 3.13 to comport it with FINRA Rule 5230.

EDGA Rule 3.13 currently provides that no member may, "directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service, or similar publication, of any matter which has, or is intended to have, an effect upon the

[3] 17 CFR 240.17d–2.

[4] *See* Securities and Exchange Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (approving File No. 10–194).

[5] *See* Securities and Exchange Release No. 60648 (September 10, 2009), 74 FR 47837 (September 17, 2009) (SR–FINRA–2009–048).

[6] *See* Securities and Exchange Release No. 60648 (September 10, 2009), 74 FR 47837 (September 17, 2009) (SR–FINRA–2009–048).

market price of any security * * *." The rule includes an exception for any matter that is "clearly distinguishable as paid advertising."

EDGA agrees with FINRA's reasoning for proposing changes to its Rule 5230. Therefore, EDGA is proposing two changes to EDGA Rule 3.13 to modernize its terms and clarify its scope.[7] First, the proposed rule change updates the list of media to which the rule refers since Rule 3.13 refers only to matters published or circulated in any "newspaper, investment service, or similar publication." The proposed rule change updates this language to include electronic and other types of media, including magazines, Web sites, and television programs. Second, the proposed rule change expands the exceptions in the rule beyond paid advertising to also include compensation paid in connection with research reports and communications published in reliance on Section 17(b) of the Securities Act of 1933.[8] EDGA is proposing these changes to clarify that the prohibitions in the rule are not intended to cover compensation paid for publications that are explicitly permitted pursuant to other rules. For example, Rule 3.13 could be read to prohibit a member from paying for a third-party research report if the report affected the market price of a security. However, EDGA does not believe that the rule should be read to prohibit compensation paid in connection with the publication of information that is specifically permitted pursuant to Section 17(b) of the Securities Act of 1933, provided the required disclosures are made.

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Section 6(b)(5) of the Act,[10] in particular, which requires, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. EDGA believes that the proposed rule change will clarify the scope of the rule as well as allow FINRA to be able to examine for it under a Rule 17d–2 agreement since it will be identical to FINRA Rule 5230, as proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2010–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2010–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–EDGA–2010–11 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20368 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

[7] The proposed rule changes also changes the title of the rule to "Payments Involving Publications that Influence the Market Price of a Security."

[8] Section 17(b) of the Securities Act of 1933 provides that no person may "publish, give publicity to, or circulate any * * * communication which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof." 15 U.S.C. 77q(b).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62711; File No. SR–FINRA–2010–041]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to FINRA Rule 2360 To Extend the Time To Submit a Contrary Exercise Advice and the Time for a Final Exercise Decision in the Event of a Modified Close of Trading

August 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 4, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 2360 (Options) to:

(1) Extend the time by which members must submit Contrary Exercise Advice ("CEA") notices;

(2) amend the time for a final exercise decision in the event of a modified close of trading; and

(3) make certain changes to reorganize the rule text to clarify the rule requirements.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend FINRA Rule 2360(b)(23)(A) to: (1) Extend the time by which members must submit Contrary Exercise Advice ("CEA")[4] notices; (2) amend the time for a final exercise decision in the event of a modified close of trading; and (3) make certain changes to reorganize the rule text to clarify the rule requirements.

FINRA Rule 2360(b)(23)(A) contains special procedures that apply to the exercise of standardized options on the last business day before expiration. An option holder with an expiring standardized option may (1) take no action and allow automatic exercise determinations to be made in accordance with the Options Clearing Corporation's ("OCC's") exercise-by-exception ("Ex-by-Ex") procedures,[5] or (2) submit a CEA as specified below. A CEA is a communication to (i) not exercise an option that would be automatically exercised under OCC's Ex-by-Ex procedure, or (ii) exercise an option that would not be automatically exercised under OCC's Ex-by-Ex procedure.

FINRA proposes to relocate and revise the provisions from the current subparagraph (ii) regarding the deadline for option holders' to inform members of exercise decisions and the deadline for members to submit CEAs indicating such decision into two separate subsections to improve readability. In new subsection (iii), FINRA provides (as currently provided in current subsection (ii)) that option holders have until 5:30 p.m. Eastern Time ("ET") on the business day immediately prior to the expiration date to make a final exercise decision to exercise or not exercise an expiring option. In addition, FINRA clarifies that members may not accept exercise instructions for customer or non-customer accounts after 5:30 p.m. ET. This is not a new requirement but meant to highlight that this provision is still in effect.

The balance of current subparagraph (ii) regarding the deadline for members to submit CEAs indicating the option holders' exercise decision is relocated to the end of new subparagraph (iv) after the explanation of the contents of CEAs. FINRA believes this improves the readability of the rule. In addition, FINRA proposes to extend the deadline for members to submit CEAs in certain instances. Currently, members have until 6:30 p.m. ET to submit a CEA for customer accounts. In addition, members have until 6:30 p.m. ET to submit a CEA for non-customer accounts if the member employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. FINRA proposes to extend these deadlines by one hour, from 6:30 p.m. ET to 7:30 p.m. ET. FINRA believes that granting members additional time to submit CEAs is necessary to address concerns raised by members that the existing deadline has raised issues regarding timely back-office processing. FINRA notes that the Ex-by-Ex threshold has changed from $0.75 for customers (and $0.25 for broker-dealers) to $0.01 for all accounts. This decrease in the Ex-by-Ex threshold coupled with the increase in options trading volume in recent years has lead to a larger number of CEAs and increased the burden on firms to process and submit instructions timely. The proposed additional one hour will address this concern by further enabling firms to more timely manage, process and submit CEAs.

FINRA does not propose to extend the CEA submission cut-off time for non-customer accounts of members that do not use electronic time stamps to record the submission of exercise instructions from option holders. Such CEAs must be manually submitted by the member by 5:30 p.m. ET.

FINRA also proposes two amendments to subparagraph (vii), re-numbered as subparagraph (viii), regarding the deadlines in the event a modified close of trading is announced. First, FINRA proposes to amend the deadline for option holders to make a final exercise decision for an expiring standardized option from 1 hour and 28 minutes following the modified time

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Contrary Exercise Advices also are referred to as Expiring Exercise Declarations ("EED") in The Options Clearing Corporation's rules.

[5] Under the Ex-by-Ex procedures an option will be automatically exercised if the option contract is in-the-money by a requisite amount.

announced for the close of trading to 1 hour and 30 minutes following the modified closing time. The proposed rule change is consistent with the rules of the options exchanges, which were modified to correspond to the two-minute difference in trading time created by the change in the close of trading time from 4:02 p.m. to 4 p.m. ET.[6] Consistent with this modification, FINRA also proposes that members that do not employ an electronic submission procedure for exercise instructions would be required to submit a CEA within 1 hour and 30 minutes after the modified close of trading for its non-customer accounts rather than 1 hour and 28 minutes.

Second, FINRA proposes to modify re-numbered subparagraph (viii), which allows a member up to 2 hours and 28 minutes to submit a CEA in the event of a modified close of trading, by removing such provision and allowing a member to submit a CEA in such circumstances up to 7:30 p.m. ET. FINRA believes making uniform the submission deadlines on both regular and modified close expiration days provides for consistent regulation and prevents the possibility for error when determining what the CEA submission deadline is on any modified close expiration day. The initiative to address members' concern regarding the cut-off time for CEAs is industry-wide, and FINRA proposes these amendments to maintain consistency with the rules of the options exchanges.[7]

FINRA has filed the proposed rule change for immediate effectiveness. If the implementation date of the proposed rule change is more than 5 business days prior to the date of the next expiration Friday, i.e., the third Friday of the month ("Expiration Friday"),[8] FINRA will implement the proposed rule change so as to be effective for that Expiration Friday. If the implementation date of the proposed rule change is 5 business days or less prior to the date of the next Expiration Friday, FINRA will implement the rule change so as to be effective for the following Expiration Friday. FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[9] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities as set forth in Section 15A(b)(6) of the Act[10] by providing members an additional hour within which to complete the necessary processing of CEAs, will thereby decrease members' burden of processing an increasing number of CEAs and enable them to more easily manage and process these instructions. In addition, the proposed rule change is being made to maintain consistency with the rules of the options exchanges.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2010–041 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–041. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be

[6] *See* Securities Exchange Act Release Nos. 53519 (March 20, 2006), 71 FR 15229 (March 27, 2006) (SR–AMEX–2006–26); 53249 (February 7, 2006), 71 FR 8035 (February 15, 2006) (SR–PCX–2005–138); 53407 (March 3, 2006), 71 FR 12764 (March 13, 2006) (SR–PHLX–2006–12); 53439 (March 7, 2006), 71 FR 13643 (March 16, 2006) (SR–ISE–2006–11); and 53438 (March 7, 2006), 71 FR 13641 (March 16, 2006) (SR–CBOE–2006–19).

[7] *See* Securities Exchange Act Release No. 61710 (March 15, 2010), 75 FR 13636 (March 22, 2010) (Order Approving SR–ISE–2010–02). FINRA anticipates that the other options exchanges will propose similar rule changes.

[8] For example, Expiration Friday for August 2010 options will be August 20, 2010, Expiration Friday for September options will be September 17, 2010.

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] *See* note 7.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2010–041 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20473 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62706; File No. SR–NYSEArca–2010–76]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Rule 6.24 Exercise of Options Contracts

August 12, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 3, 2010, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.24—Exercise of Options Contracts. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 6.24 in order to, (i) extend the cut-off time to submit Contrary Exercise Advices ("CEA")[4] to the Exchange, and (ii) make a technical change to the rule by revising all Pacific Time ("PT") references to reflect Eastern Time ("ET").[5]

Change in Cut-Off Time

The Options Clearing Corporation ("OCC") has an established procedure, under OCC Rule 805, that provides for the automatic exercise of certain options that are in-the-money by a specified amount known as "Exercise-by-Exception" or "Ex-by-Ex." Under the Ex-by-Ex process, options holders holding option contracts that are in-the-money by a requisite amount and who wish to have their contracts automatically exercised need take no further action. However, under OCC Rule 805, option holders who do not want their options automatically exercised or who want their options to be exercised under different parameters than that of the Ex-by-Ex procedures must instruct OCC of their "contrary intention."

In addition to and separately from the OCC requirement, under NYSE Arca Rule 6.24 option holders must file a CEA with the Exchange notifying it of the contrary intention. Rule 6.24 is designed, in part, to deter individuals from taking improper advantage of late breaking news by requiring evidence of an option holder's timely decision to exercise or not exercise expiring equity options. OTP Holders and OTP Firms[6] satisfy this evidentiary requirement by submitting a CEA form directly to the Exchange, or by electronically submitting the CEA to the Exchange through OCC's electronic communications system. The submission of the CEA allows the Exchange to satisfy its regulatory obligation to verify that the decision to make a contrary exercise was made timely and in accordance with Rule 6.24.

Under Rule 6.24, option holders have until 2:30 p.m. PT (5:30 p.m. ET) on the last business day before their expiration to make a final decision to exercise or not exercise an expiring option that would otherwise either expire or be automatically exercised. OTP Holders may not accept CEA instructions from their customer or non-customer accounts after 2:30 p.m. PT (5:30 p.m. ET). However, the current rule gives OTP Holders and OTP Firms additional time to submit the CEA instructions if they use an electronic submission process.[7] Specifically, an OTP Holder or OTP Firm may currently submit CEA instructions until 3:30 p.m. PT (6:30 p.m. ET) when using an electronic submission.

This current process allowing OTP Holders and OTP Firms an additional one hour after the decision making cut off time of 2:30 p.m. PT (5:30 p.m. ET) to submit a CEA to the various options exchanges was approved by the Commission in 2003.[8] In 2003, the Ex-by-Ex thresholds were $0.75 for customers and $0.25 for broker-dealer accounts. In 2009, the Ex-by-Ex threshold is $0.01 for all accounts. This decrease in the Ex-by-Ex threshold, coupled with the dramatic increase in option trading volume from 2003 to 2009, has led to a larger number of CEA instructions and has increased the

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Contrary Exercise Advices are also referred to as Expiring Exercise Declarations ("EED").

[5] Presently, all referenced times in Rule 6.24 are noted in Pacific Time.

[6] The term OTP refers to an Options Trading Permit issued by the Exchange for effecting securities transactions on the Exchange. OTP Holders and OTP Firms have the status of "member" of the Exchange as that term is defined in Section 3 of the Securities Exchange Act of 1934, as amended.

[7] If an OTP Holder does not employ an electronic submission procedure, they are required to submit CEAs for non-customer accounts by the 2:30 p.m. (5:30 p.m. ET) deadline. This deadline for manual submission is required in order to prevent firms from improperly extending the 2:30 p.m. (5:30 p.m. ET) deadline to exercise or not exercise an option. This requirement is based on the difficulty in monitoring a manual procedure that has different times for deciding whether or not to exercise the option and for the submission of the CEA.

[8] *See* Securities Exchange Act Release Nos. 47885 (May 16, 2003), 68 FR 28309 (May 23, 2003) (SR–Amex–2001–92); 48505 (September 17, 2003), 68 FR 55680 (September 26, 2003) (SR–ISE–2003–20); 48640 (October 16, 2003), 68 FR 60757 (October 23, 2003) (SR–PCX–2003–47); and 48639 (October 16, 2003), 68 FR 60764 (October 23, 2003) (SR–Phlx–2003–65).

burden on firms to process and submit instructions timely.

The Exchange proposes to extend the current 3:30 p.m. PT (6:30 p.m. ET) deadline for submitting CEA instructions to the Exchange by one additional hour, up to 4:30 p.m. PT (7:30 p.m. ET). The Exchange believes that this proposed rule change is necessary to address concerns that, given the decrease in the Ex-by-Ex threshold and the increase in trading, the existing deadline for submitting CEAs to the Exchange is problematic for timely back-office processing. The proposed additional one hour will address this concern by further enabling firms to more timely manage, process, and submit the instructions to the Exchange. The Exchange also proposes to modify the language in subsection (g) of the current rule, which allows OTP Holders and OTP Firms up to 2 hours and 30 minutes to submit a CEA to the Exchange in the event of a modified close of trading on the day of expiration, by removing the two hour and thirty minute restriction and allowing for submission of a CEA to the Exchange in the event of a modified close of trading of up to the proposed 4:30 p.m. PT (7:30 p.m. ET) deadline. This will make consistent the submission deadline for both regular and modified close expiration days. Moreover, this will provide uniformity with submission deadlines for both regular and modified close expiration days which will remove any possibility for error when determining what the submission deadline is on any modified close expiration day.

In addition, the Exchange proposes to revise Commentary .04(i) to reflect that OTP Holders and OTP Firms, who electronically submit Contrary Exercise Advice decisions on behalf of non-customer option holders, will now have one additional hour, until 4:30 p.m. PT (7:30 p.m. ET), to submit such decisions to the Exchange.

This proposal does not change the substantive requirement that option holders make a final decision by 2:30 p.m. PT (5:30 p.m. ET). The options exchanges currently enforce the 2:30 p.m. PT (5:30 p.m. ET) requirement while giving members additional time to process and submit the CEA instructions. This proposal seeks to increase that additional submission time by one hour, and the Exchange believes that this proposal will be beneficial to the marketplace, particularly as it concerns back-office processing. The initiative to address OTP Holder concerns is industry-wide. The International Securities Exchange recently adopted a rule change which extended, by one hour, the submission time for CEAs.[9] NYSE Arca anticipates that all other options exchanges will also propose similar rule changes. This additional processing time and Exchange submission deadline will not conflict with OCC submission rules or cause any OCC processing issues.

Technical Changes Related to Time Zones

All time references in current Rule 6.24 are reflected in Pacific Time. Rule 6.24 dates back to when NYSE Arca (f/k/a The Pacific Exchange) was headquartered in California and all business on the Exchange was conducted on the physical trading floor.

While the Exchange still operates a trading floor in California, OTP Holders and OTP Firms are no longer geographically limited to California and able to conduct business from remote locations throughout the country. NYSE Arca now proposes to remove references to Pacific Time in Rule 6.24 and replace them with the more commonly recognized Eastern Time. All existing and proposed time references in Rule 6.24 will now be reflected as Eastern Time. This is simply a technical change and does not alter the period of time that OTP Holders and OTP Firms are afforded when making decisions to exercise options contracts.

Implementation of Proposed Rule Change

If the operative date of this proposed rule change is more than five business days prior to the date of the next options expiration Friday, i.e., the third Friday of the month ("Expiration Friday"),[10] the Exchange will implement the rule change so as to be effective for that Expiration Friday. If the operative date of this proposed rule change is five business days or less prior to the date of the next Expiration Friday, the Exchange will implement the rule change so as to be effective for the following Expiration Friday. NYSE Arca will notify OTP Holders of the implementation date of the rule change via a Regulatory Bulletin.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. This proposed rule change will foster coordination with back office personnel engaged in processing information and is consistent with the facilitating of transactions in securities as set forth in Section 6(b)(5) in that it, by providing OTP Holders and OTP Firms an additional hour within which to complete the necessary processing of CEAs, will thereby decrease the burden of processing an increasing number of contrary exercise advices and enable OTP Holders and OTP Firms to more easily manage and process these instructions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

[9] *See* Securities and Exchange Act Release No. 61710 (March 15, 2010), 75 FR 13636 (March 22, 2010) Approval order for SR–ISE–2010–02.

[10] For example, Expiration Friday for August 2010 options will be August 20, 2010, Expiration Friday for September 2010 options will be September 17, 2010.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2010–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2010–76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEArca–2010–76 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20470 Filed 8–17–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62715, File No. SR–MSRB–2009–17]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Consisting of (i) Amendments to Rule G–8 (Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers), Rule G–9 (Preservation of Records), and Rule G–11 (New Issue Syndicate Practices); (ii) a Proposed Interpretation of Rule G–17 (Conduct of Municipal Securities Activities); and (iii) the Deletion of a Previous Rule G–17 Interpretive Notice

August 13, 2010.

I. Introduction

On November 18, 2009, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of (i) proposed amendments to Rule G–8 (books and records to be made by brokers, dealers and municipal securities dealers), Rule G–9 (preservation of records), and Rule G–11 (new issue syndicate practices); (ii) a proposed interpretation (the "proposed interpretive notice") of Rule G–17 (conduct of municipal securities activities); and (iii) the deletion of a previous Rule G–17 interpretive notice on priority of orders dated December 22, 1987 (the "1987 interpretive notice"). The proposed rule change was published for comment in the **Federal Register** on December 10, 2009.[3] The Commission received four comment letters about the proposed rule change.[4] On August 4, 2010, the MSRB filed with the Commission, pursuant to Section 19(b)(1) of the Exchange Act[5] and Rule 19b–4 thereunder,[6] Amendment No. 1 to the proposed rule change, which made technical changes to the proposed rule change and responded to the comment letters received by the Commission in response to the Commission's Notice. The text of Amendment No. 1 is available on the MSRB's Web site (*http://www.msrb.org*), at the MSRB's principal office, and for Web site viewing and printing in the Commission's Public Reference Room. This order provides notice of Amendment No. 1 and approves the proposed rule change as modified by Amendment No. 1 on an accelerated basis.

II. Description of the Proposed Rule Change, As Modified by Amendment No. 1 to the Proposed Rule Change

The proposed amendments to Rule G–11 would: (1) Apply the rule to all primary offerings, not just those for which a syndicate is formed; (2) require that all dealers (not just syndicate members) disclose whether their orders are for their own account or a related account; and (3) require that priority be given to orders from customers over orders from syndicate members for their own accounts or orders from their respective related accounts, to the extent feasible and consistent with the orderly distribution of securities in the offering, unless the issuer otherwise agrees or it is in the best interests of the syndicate not to follow that order of priority.

The proposed amendments to Rules G–8 and G–9 would require that records be retained for all primary offerings of: (1) All orders, whether or not filled; (2) whether there was a retail order period and, if so, the issuer's definition of "retail;" and (3) those instances when the syndicate manager allocated bonds other than in accordance with the priority provisions of Rule G–11 and the specific reasons why it was in the best interests of the syndicate to do so.

The proposed interpretive notice would provide that violation of these priority provisions would be a violation

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 61110 (December 3, 2009), 74 FR 65573 (December 10, 2009) ("Commission's Notice") (the "original proposed rule change").

[4] *See* letters from: John C. Melton, Sr., Houston, Texas, dated December 15, 2009; Karrie McMillan, General Counsel, Investment Company Institute ("ICI"), dated December 23, 2009 ("ICI Letter"); Mike Nicholas, CEO, Regional Bond Dealers Association ("RBDA"), dated December 30, 2009 ("RBDA Letter"); Leon J. Bijou, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association ("SIFMA"), dated December 31, 2009 ("SIFMA Letter").

[5] 15 U.S.C. 78s(b)(1).

[6] 17 CFR 240.19b–4.

of Rule G–17, subject to the same exceptions as provided in proposed amended Rule G–11. It also would provide that Rule G–17 does not require that customer orders be accorded greater priority than orders from dealers that are not syndicate members or their respective related accounts. The proposed interpretive notice also would provide that it would be a violation of Rule G–17 for a dealer to allocate securities in a manner that is inconsistent with an issuer's requirements for a retail order period without the issuer's consent. Issuance of the notice, in addition to the amendments to Rule G–11, is consistent with previous guidance issued by the Board that all activities of dealers must be viewed in light of the basic fair dealing principles of Rule G–17, regardless of whether other MSRB rules establish additional requirements on dealers.[7]

The original proposed rule change arose out of the Board's ongoing review of its General Rules as well as concerns expressed by institutional investors that their orders were sometimes not filled in whole or in part during a primary offering, yet the bonds became available shortly thereafter in the secondary market. They attributed that problem to two causes: First, some retail dealers were allowed to place orders in retail order periods without going away orders and second, syndicate members, their affiliates, and their respective related accounts were allowed to buy bonds in the primary offering for their own account even though other orders remained unfilled. There was also concern that these two factors could contribute to restrictions on access to new issues by retail investors, in a manner inconsistent with the issuer's intent. A full description of the original proposed rule change is contained in the Commission's Notice.

Amendment No. 1 amends the text of the original proposed rule change to clarify that (i) amended MSRB Rule G–8(a)(viii) requires that records must be kept of whether there was a retail order period, regardless of whether the issuer required that there be one; (ii) the term "priority provisions" as used in amended Rule G–8(a)(viii)(A) includes both the customer priority provisions set forth in amended Rule G–11(e) and any other priority provisions of the syndicate (*e.g.,* those included in an agreement among underwriters); (iii) the recordkeeping requirements of amended Rule G–8(a)(viii) concerning deviations from the customer priority provisions and the specific reasons for doing so are the same for both sole underwriters and syndicate managers; and (iv) the customer priority requirements of the interpretive notice are the same as those of amended Rule G–11(e).[8] Amendment No. 1 also corrects a typographical error in amended G–11(e)(ii).

The MSRB is proposing the revision to the original proposed rule change set forth in clause (i) of the description of Amendment No. 1 above, because in many cases a retail order period is conducted based on the recommendation of the underwriter, not because the issuer has required that there be a retail order period. The MSRB considers it important to know whether there was a retail order period, regardless of whether the issuer required that there be one. There is no revision to the requirement of amended Rule G–8(a)(viii) that requires a record of the issuer's definition of "retail," if applicable.

As more fully described below, the MSRB is proposing the revision to the original proposed rule change set forth in clause (ii) of the description of Amendment No. 1 above in response to a comment filed by the Regional Bond Dealers Association, which suggested that it was unclear what the term "priority provisions" meant in amended Rule G–8(a)(viii)(A).

The MSRB is proposing the revision to the original proposed rule change set forth in clause (iii) of the description of Amendment No. 1 above to conform the recordkeeping rules for syndicates and sole managers, finding no reason for distinguishing between the two. Furthermore, the revision to amended Rule G–8(a)(viii)(A) is intended to remove what might have been perceived as a difference between amended Rule G–11(e) and the proposed interpretive notice.

As more fully described below, the MSRB is proposing the revision to the original proposed rule change set forth in clause (iv) of the description of Amendment No. 1 above in response to a comment received from the Securities Industry and Financial Markets Association, which interpreted the use of the word "generally" to mean that there could be exceptions to the priority of orders provisions other than those set forth in the proposed interpretive notice. The revision makes it clear that the exceptions set forth in the proposed interpretive notice are the only exceptions. The Board considers those exceptions sufficient to cover the circumstances under which an underwriter might find it necessary to deviate from the priority provisions.

Effective Date of Proposed Rule Change

The MSRB requested that the proposed rule change become effective for new issues of municipal securities for which the Time of Formal Award (as defined in Rule G–34(a)(ii)(C)(1)(a)) occurs more than 60 days after approval of the proposed rule change by the SEC.

III. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letters received, and the MSRB's responses to the comment letters and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB[9] and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act[10] and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Exchange Act requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[11] In particular, the Commission finds that the proposed rule change is consistent with the Exchange Act because it will prevent fraudulent and manipulative acts and practices and protect investors and the public interest. The Commission believes the proposal will help achieve a broader distribution of municipal securities while still providing sufficient flexibility to syndicate managers and sole underwriters, and further believes that investors would benefit from a broader distribution of securities that is fair and reasonable and consistent with principles of fair dealing.

[7] MSRB Notice 2009–42 (July 14, 2009)—Guidance on Disclosure and Other Sales Practice Obligations to Individual and Other Retail Investors in Municipal Securities.

[8] Amendment No. 1 would make no changes to revised Rule G–9 as set forth in the original proposed rule change.

[9] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78o–4(b)(2)(C).

[11] *Id.*

Discussion of Comment Letters

The Commission received four comment letters in response to the Commission's Notice. ICI supported the proposal. RBDA, SIFMA and Mr. Melton expressed concerns about various aspects of the proposal.

ICI stated that they believe the proposal would improve access to new issues by investors and would help address uncertainty surrounding Rule G–17. They also stated that the experience of their members has demonstrated that industry practice over the previous year has allowed for the regular disregard of previous MSRB guidance on priority of orders. In addition, they stated that there is no reason to disadvantage, or allow for the appearance of disadvantaging, retail customers in primary offerings because the offering does not use a syndicate.

ICI urged the MSRB to consider defining "retail" for purposes of "retail order periods" in a way that recognizes that retail investors access the municipal market through a variety of ways, including mutual funds. ICI noted that retail investors are excluded from the retail order periods if they choose to make their municipal bond investments through mutual funds, and that these retail investors often are the smaller or less sophisticated investors who do not have the necessary assets to purchase bonds on their own.

The MSRB stated that it appreciated the concerns expressed by ICI regarding the pricing of bonds purchased by retail investors. The MSRB indicated that it is aware of the substantial retail participation in the municipal securities market that is accomplished through mutual fund investments. Nevertheless, the MSRB stated that MSRB rules do not require that primary offerings of municipal securities include retail order periods, and that the MSRB considers it appropriate to leave that decision and the decision of how "retail" is defined to issuers of municipal securities. The Commission believes that leaving decisions about retail order periods to the discretion of municipal issuers is not inconsistent with the Exchange Act.

RBDA supports the intent of the proposed amendments to the priority provisions which generally would give express priority to customer orders over orders by members of a syndicate or a sole underwriter for their own or related accounts. Nonetheless, RBDA urges the MSRB to permit syndicate managers and sole underwriters to refuse to prioritize as a customer order any order that the syndicate manager or sole underwriter reasonably believes to have been placed by an opportunistic investor purchasing bonds with the expectation of reselling them at higher prices shortly after the initial offering.

The MSRB stated in response that the proposed rule change would permit deviation from the priority provisions of amended Rule G–11 if following the priority provisions was not consistent with the orderly distribution of securities in the offering or, in the case of syndicates, the syndicate manager determined that it was in the best interests of the syndicate to deviate from the priority provisions. The MSRB believes that, depending on the specific facts and circumstances, a sole underwriter or syndicate manager could reasonably determine that according priority to an order from a customer whom the sole underwriter or syndicate manager reasonably believes would purchase municipal securities with the expectation of selling them at higher prices shortly thereafter might be an appropriate basis for departing from the priority provisions consistent with the proposed rule change.

RBDA was also concerned that the proposed amendment would require records to be made of each instance in which the syndicate manager accorded equal or greater priority over other orders to orders by syndicate members for their own or related accounts, even if such prioritization were in compliance with the priority provisions of Rule G–11. The MSRB responded that in order for the proposed recordkeeping rule to track the proposed amendment to Rule G–11 more closely, Amendment No. 1 would amend the syndicate recordkeeping rule (Rule G–8(a)(viii)(A)) to require records of: "those instances in which the syndicate manager allocated securities in a manner other than in accordance with the priority provisions, including those instances in which the syndicate manager accorded equal or greater priority over other orders to orders by syndicate members for their own accounts or their respective related accounts. * * *"

In addition, RBDA was concerned that the proposal's requirement to record the specific reasons why it was in the best interests of the syndicate to make any such alternate allocations would be unnecessarily perilous for syndicate managers. RBDA believes the amendment is unclear about the amount of detail regarding these reasons that would be necessary to record in order to satisfy the new requirements. RBDA also states that the requirement for such qualitative analysis will create an opportunity to second guess in hindsight the recorded judgment of the syndicate manager.

The MSRB responded that existing Rule G–11 already provides that, in the event the syndicate manager allocates bonds other than in accordance with the priority provisions of the syndicate, "the syndicate manager or managers shall have the burden of justifying that such allocation was in the best interests of the syndicate." The MSRB also stated that the proposed rule change does not change this requirement; it merely requires the syndicate manager to keep a contemporaneous record of such justification.

The Commission believes the MSRB has adequately addressed RBDA's concerns. The proposed rule change would permit deviation from the priority provisions of amended Rule G–11 if following the priority provisions was not consistent with the orderly distribution of securities in the offering or, in the case of syndicates, the syndicate manager determined that it was in the best interests of the syndicate to deviate from the priority provisions. Amendment No. 1 should address RBDA's duplicative recordkeeping concerns. And the Commission agrees that the proposed rule change does not change the syndicate manager's existing burden of justifying that such allocation was in the best interests of the syndicate; rather, it merely requires the syndicate manager to keep a contemporaneous record of such justification.

SIFMA expressed concern that the intent of the proposed rule is ambiguous. SIFMA infers that the MSRB's intent is, at least in part, to prevent flipping. SIFMA stated that there are many reasons why orders are not filled and that there are many ways securities can be sold at higher prices in the secondary market that do not require regulatory response. The MSRB stated in its response that its goal behind the proposed rule change was to achieve a broader distribution of municipal securities, and the proposed rule change was not directed at flipping.

SIFMA suggested that helping to ensure that institutional investors' orders are filled would be the antithesis of "a broader distribution of municipal securities." In addition, SIFMA stated that the exceptions to the priority provisions contradict the claim that the purpose of the proposal is to encourage a broader distribution of municipal securities.

The MSRB noted in its response that many institutional investors serve as vehicles for individual investors to invest in municipal securities, as explained in ICI's comment letter. The MSRB stated that, as of September 2009, 20 percent of municipal securities were

held by mutual funds on behalf of retail investors. The MSRB stated that these investors frequently are able to negotiate lower prices for their customers and provide a means for individual investors to achieve diversification without making large investments. The MSRB further stated that the proposed rule change does not require that underwriters accord non-underwriter dealers the same priority as customers; it simply permits them to do so.

The MSRB believes the allowance of some exceptions to the priority provisions provides needed flexibility. The MSRB noted that the proposed interpretation provides that it "understands that syndicate managers must balance a number of competing interests in allocating securities in a primary offering and must be able quickly to determine when it is appropriate to allocate away from the priority provisions, to the extent consistent with the issuer's requirements." The interpretation applies equally to sole underwriters. The need for such flexibility does not contradict the purpose of achieving broader distribution of municipal securities. The Commission agrees that the proposal would help achieve a broader distribution of municipal securities, while still allowing flexibility depending on various market conditions.

SIFMA also questioned whether the MSRB is authorized to determine the preferred order of distributing securities. The MSRB stated in its response that the MSRB is directed by Congress in section 15B of the Exchange Act to write rules designed, among other things, "to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest." The MSRB believes that broadening the distribution of municipal securities to investors in the primary market, at what are generally attendant lower prices than those available in the secondary market, is clearly within that statutory purpose. The MSRB further noted that Congressional concerns led to the provision of section 15B of the Exchange Act, and support its view that broadening the distribution of municipal securities falls within its statutory purpose. The Commission agrees that the proposed rule falls within the MSRB's statutory authority.

SIFMA expressed concern that the proposed amendments contain several different and possibly conflicting standards, and that newly revised Rule G–11(e)(i) is confusing and contradictory. SIFMA suggested that the proposed interpretive notice does not define what would constitute "the orderly distribution of securities," and that dealers could have difficulty determining what "is in the best interests of the syndicate." The MSRB responded that the phrase "orderly distribution of new issue securities" was used in the 1987 Interpretive Notice, which the proposed rule change would replace. The MSRB recognizes that, while broad distribution of securities was a concern of Congress when it enacted section 15B of the Exchange Act, the underwriter must be free to exert some control over that process if necessary to achieve a favorable result for the issuer. The MSRB further stated that it was the MSRB's intent that the priority provisions may be deviated from if it is in the best interests of the syndicate to do so, and noted that the proposed interpretation contains the same exception as is found in the proposed amendment to Rule G–11.

SIFMA believes the proposed rule change would have a detrimental effect on competition and borrowing costs and would not apply equally to all dealers. SIFMA believes that the proposal would result in higher borrowing costs for issuers and subordinate a very large group of active municipal market investors to other investors because they are affiliated with or related to the syndicate manager.

The MSRB responded that the proposal would apply equally to all dealers when they serve as underwriters. All underwriters would continue to be able to place going-away orders (*i.e.,* orders for which customers are already conditionally committed) during the primary offering that would be accorded priority under the proposal.[12] The MSRB stated that the proposed rule change incorporates the same exceptions to the priority provisions that exist under current law. The MSRB further stated that what the proposed rule change would do is to require accountability of underwriters who deviated from the priority provisions, because they would be required to keep records of their reasons for doing so.[13]

SIFMA stated that the proposed interpretive notice is less restrictive than the proposed rule amendments. SIFMA said that the greater flexibility of the proposed interpretive notice is the result of the word "generally," which was included to indicate that the principles of fair dealing contained in Rule G–17 provide guidance that must take into account all of the circumstances surrounding an allocation of securities in a primary offering and do not compel giving priority to customers' orders. SIFMA stated that the interpretive notice is also more flexible than the proposed rule for sole underwriters who are not part of a syndicate. The MSRB responded that there was no intent to make the proposed interpretation less rigorous than the proposed amendment to Rule G–11. For the avoidance of doubt, Amendment No. 1 would slightly revise the proposed interpretation.

The Commission believes the MSRB has adequately addressed SIFMA's concerns about the purpose of the proposal, the application of the proposal's requirements, its impact on competition and borrowing costs and the MSRB's statutory authority. Amendment No. 1 should clarify that the interpretive notice is not inconsistent with the rule.

Mr. Melton states that the intent of the MSRB is to restrict activity that many see as free riding in new issue municipal offerings. He suggests that the proposal should be re-drafted to allow underwriters the flexibility to identify flippers and treat those orders as dealer orders rather than affording flippers customer status. He is also of the view that the "best interests of the syndicate" exception would require unnecessary effort and not provide assurance that an underwriter could protect itself against allegations of rule violations in new issue allocations. Mr. Melton suggested that clear language should be drafted that allows an underwriter to identify flippers and prioritize flipper orders accordingly.

The MSRB responded that the MSRB considers it consistent with the permitted exceptions from the priority provisions for a sole underwriter or syndicate manager to refuse to accord priority to an order from a customer whom the sole underwriter or syndicate manager reasonably believes would purchase municipal securities with the

[12] The MSRB stated that the fact that Rule G–14 requires that such orders be reported to the MSRB's Real-Time Trade Reporting System as interdealer orders will not cause such orders to be treated as interdealer orders for purposes of the priority of orders provisions of Rule G–11(e) and Rule G–17, as long as an equivalent amount of customer orders for the same securities is reported under Rule G–14 on the same day as the interdealer order is executed.

[13] The MSRB also notes that a "municipal securities investment trust" is only a related account if sponsored by a syndicate member, sole underwriter, or an affiliate of either. To be a sponsor of such a trust a dealer or its affiliate must share in the benefits and burdens of ownership of the municipal securities in the trust. The provision of structuring, remarketing, or liquidity services with respect to such a trust will not alone cause the trust to be a related account of the dealer or affiliate providing such services.

expectation of selling them at higher prices shortly thereafter. Furthermore, the MSRB stated that the proposed rule change incorporates the same exceptions to the priority provisions that exist under current law, and that what the proposed rule change would do is to require accountability of underwriters who deviated from the priority provisions, because they would be required to keep records of why they did so. The Commission believes the MSRB's explanation of the application of the proposal adequately addresses Mr. Melton's concerns. With regard to all other issues raised by the commenters, the Commission believes that the MSRB has adequately addressed the commenters' concerns.

IV. Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to Section 19(b)(2) of the Exchange Act,[14] the Commission may not approve any proposed rule change, or amendment thereto, prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding. The MSRB requests that the Commission find good cause, pursuant to Section 19(b)(2) of the Exchange Act, for approving Amendment No. 1 prior to the thirtieth day after publication of notice of filing of Amendment No. 1 in the **Federal Register**. The MSRB believes that the Commission has good cause for granting accelerated approval of the proposed rule change because the revisions made by Amendment No. 1 are technical amendments that do not significantly alter the substance of the original proposed rule change, are consistent with the purpose of the original proposed rule change, and do not raise significant new issues. The Commission hereby finds good cause for approving the proposed rule change, as modified by Amendment No. 1, before the 30th day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission notes that the original proposed rule change was published in the **Federal Register** on December 10, 2009. The Commission does not believe that Amendment No. 1 significantly alters the proposal. In Amendment No. 1, the MSRB made technical revisions in response to comments. The Commission believes that Amendment No. 1 is consistent with the proposal's purpose and raises no new significant issues. Accordingly, pursuant to Section 19(b)(2) of the Exchange Act,[15] the Commission finds good cause to approve the proposed rule change, as amended, on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2009–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MSRB–2009–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2009–17 and should be submitted on or before September 8, 2010.

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Exchange Act and the rules and regulations thereunder applicable to the MSRB[16] and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act[17] and the rules and regulations thereunder. The proposal will become effective for new issues of municipal securities for which the Time of Formal Award (as defined in Rule G–34(a)(ii)(C)(1)(a)) occurs more than 60 days after approval of the proposed rule change by the SEC, as requested by the MSRB.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[18] that the proposed rule change (SR–MSRB–2010–17), as amended, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20467 Filed 8–17–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62704; File No. SR–CBOE–2010–073]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fees Schedule and Circular Regarding Trading Permit Holder Application and Other Related Fees

August 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. The Commission is

[14] 15 U.S.C. 78s(b)(2).

[15] 15 U.S.C. 78s(b)(2).

[16] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78o–4(b)(2)(C).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule and circular regarding Trading Permit Holder application and other related fees ("Trading Permit Fee Circular") as they apply to tier appointments and bandwidth packets. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to amend its Fees Schedule and Trading Permit Fee Circular to extend the deadline for notification of termination of a tier appointment or bandwidth packet until the last business day of the prior month. Specifically, tier appointments and bandwidth packets will be renewed automatically for the next month unless the Trading Permit Holder submits written notification to the CBOE Registration Services Department by the last business day of the prior month to cancel the tier appointment or bandwidth packet effective at or prior to the end of the applicable month. Trading Permit Holders were previously required to submit this notification by the 25th day of the prior month (or the preceding business day if the 25th was not a business day). CBOE no longer believes that it requires this additional notice in the context of tier appointment and bandwidth packet terminations.

CBOE is also proposing to amend its Fees Schedule and Trading Permit Fee Circular to establish a fee scale for the purchase of Order Entry Bandwidth Packets under which the cost of an Order Entry Bandwidth Packet would decline at certain break points as additional Order Entry Bandwidth Packets are purchased. Specifically, the first through fifth Order Entry Bandwidth Packets obtained by a Trading Permit Holder would cost $2,000 per packet per month, the sixth through eighth Order Entry Bandwidth Packets obtained by that Trading Permit Holder would cost $1,000 per packet per month, the ninth through thirteenth Order Entry Bandwidth Packets obtained by that Trading Permit Holder would cost $500 per packet per month, and the fourteenth and each additional Order Entry Bandwidth Packet obtained by that Trading Permit Holder would cost $250 per packet per month. As with CBOE's current bandwidth packet fees, the foregoing fees would be discounted by 20% through the end of 2010.

CBOE also proposes to allow Trading Permit Holders to obtain and assign to a particular Sponsored User of the Trading Permit Holder one or more Order Entry Bandwidth Packets. In that event, the fees for the assigned bandwidth packet(s) would be assessed to the Trading Permit Holder and the bandwidth packet(s) could be utilized solely by the Sponsored User (and not by the Trading Permit Holder or any other Sponsored User).

Fees for Order Entry Bandwidth Packets assigned to a particular Sponsored User would be subject to the same fee scale as above and to the 20% discount through the end of 2010 that would apply to Order Entry Bandwidth Packets obtained by Trading Permit Holders that are not assigned to a particular Sponsored User, with one difference. Specifically, each break point in the fee scale would be one numeral higher than in the fee scale for Order Entry Bandwidth Packets not assigned to a particular Sponsored User. Thus, for example, the first tier of the fee scale for Order Entry Bandwidth Packets assigned to a particular Sponsored User would be for the first four Order Entry Bandwidth Packets instead of for the first three Order Entry Bandwidth Packets. The reason for this difference is that each Trading Permit Holder has already paid for the order entry bandwidth allocation that is provided by the Trading Permit by paying for the Trading Permit so the fee scale is structured so that the fee for the first Order Entry Bandwidth Packet that is assigned to a Sponsored User is paid before the sliding scale becomes applicable.

Thus, the full fee scale for Order Entry Bandwidth Packets assigned by a Trading Permit Holder to a Sponsored User would be that the first through sixth Order Entry Bandwidth Packets assigned to the Sponsored User would cost $2,000 per packet per month, the seventh through ninth Order Entry Bandwidth Packets assigned to that Sponsored User would cost $1,000 per packet per month, the tenth through fourteenth Order Entry Bandwidth Packets assigned to that Sponsored User would cost $500 per packet per month, and the fifteenth and each additional Order Entry Bandwidth Packet assigned to that Sponsored User would cost $250 per packet per month.

CBOE is proposing to implement the foregoing changes effective for the month of August 2010.

2. Statutory Basis

The proposed rule change will treat all Trading Permit Holders in a consistent manner and apply the same fees with respect to all Sponsored Users. The difference in the fee scale applicable with respect to Sponsored Users is reasonable in that Sponsored Users are not CBOE Trading Permit Holders and have not already obtained an order entry bandwidth allowance through the purchase of a Trading Permit. Accordingly, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(4) of the Act[4] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among persons using its facilities for the reasons described above.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule has become effective pursuant to Section 19(b)(3)(A)

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

of the Act[5] and subparagraph (f)(2) of Rule 19b–4[6] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2010–073 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2010–073. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2010–073 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

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[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62703; File No. SR–ISE–2010–81]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to Trading Options on a Reduced Value of the DAX Index, Including Long-Term Options

August 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2010, the International Securities Exchange, Inc. (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change, replacing the original filing in its entirety, as described in Items I and II, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its rules to trade options on a reduced value DAX Index ("Mini DAX"). The Mini DAX represents 1/10th of the full value of the DAX Index. The Exchange also proposes to list and trade long-term options on the Mini DAX. Options on the Mini DAX will be A.M. cash-settled and will have European-style exercise provisions. The text of the proposed rule change is available on the Exchange's Web site at *http://www.ise.com*, on the Commission's Web site at *http://www.sec.gov*, at the Exchange, and at the Commission's Public Reference Room. A copy of this filing is available on the Exchange's Web site at *http://www.ise.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The Exchange proposes to amend its Rules 2001, 2004 and 2009 to provide for the listing and trading of options on the Mini DAX, which represents 1/10th of the full value of the DAX Index. In addition to options on the Mini DAX, the Exchange may list long-term options on the Mini DAX (the "Mini DAX LEAPS").[3] Options on the Mini DAX will A.M. cash-settled and will have European-style exercise provisions.

The DAX Index is an internationally recognized, capitalization-weighted index based on the prices of the 30 most highly capitalized German stocks admitted to the Prime Standard Segment of the FWB Frankfurter Wertpapierbörse (Frankfurt Stock Exchange) and traded on the Xetra trading system operated by Deutsche Börse AG ("DBAG"). DBAG is regulated by the German Federal Financial Supervisory Authority ("BaFin"). DBAG's Xetra trading system is a fully electronic order book trading service. Xetra is the central price formation and trading service for the securities comprising the DAX Index. DBAG and the SIX Swiss Exchange jointly operate a fully electronic derivatives exchange called Eurex. Eurex lists futures and options on, among other things, equities, equity indexes, interest rates, and commodities.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Under ISE Rule 2009(b), "Long-Term Index Options Series," the Exchange may list long-term options that expire from 12 to 60 months from the date of issuance.

Currently, DBAG lists equity options and futures on the components of the DAX Index and equity index options and futures on the DAX Index itself. The Exchange notes that the Commission previously provided an exemption under the Investment Company Act of 1940 for the issuance of an exchange traded fund by Northern Trust Global Investments called the NETS DAX Index Fund ("DAX Fund") that held as its portfolio the components of the DAX Index.[4] Further, in 1994, the Chicago Board Options Exchange ("CBOE") had filed a proposed rule change to list options, including long-term options, on a reduced-value of the DAX Index.[5]

Index Design and Composition

The DAX Index was launched on July 1, 1988 by the Frankfurt Stock Exchange, Arbeitsgemeinschaft der Deutschen Wertpapierbörsen (Association of German Stock Exchanges) and Börsen-Zeitung (a German stock exchange newspaper). The DAX Index is administered and maintained by DBAG[6] on the basis of Xetra prices for the component stocks and calculated in real-time once per second. The DAX Index is a capitalization-weighted index where the weight of any individual component is proportional to its respective share in the total market capitalization of all the components. To qualify for inclusion in the DAX Index, a company must, at a minimum, satisfy the following conditions: (1) It must be admitted to the Prime Standard Segment of the Frankfurt Stock Exchange; (2) it must be traded continuously on Xetra; (3) it must have a free float of at least 10%; (4) it must be headquartered in Germany, or if headquartered elsewhere in the European Union then 33% of its aggregate volume for each of the past three months must have been executed on the Frankfurt Stock Exchange; and (5) it must be sufficiently liquid to be traded.[7]

The DAX Index consists of the 30 most highly liquid and capitalized German stocks ranked by float-adjusted market capitalization.[8] The Management Board of DBAG decides whether changes are to be made to the composition of the index on an annual basis in September but also performs quarterly reviews of the components' free float.

As set forth in Exhibit 3–1, as of February 16, 2010, following are the characteristics of the DAX Index: (i) The total capitalization of all of the components in the Index is €641.49 billion; (ii) regarding component capitalization, (a) the highest capitalization of a component is €58.78 billion (Salzgitter AG), (b) the lowest capitalization of a component is €3.91 billion (K+S AG), (c) the mean capitalization of the components is €21.38 billion, and (d) the median capitalization of the components is €14.31 billion; (iii) regarding component price per share, (a) the highest price per share of a component is €109.85 (Muenchener Rueckversicherungs AG), (b) the lowest price per share of a component is €4.09 (Infineon Technologies AG), (c) the mean price per share of a component is €43.50, and (d) the median price per share of a component is €42.29; (iv) regarding component weightings, (a) the highest weighting of a component is 10.65% (Siemens AG), (b) the lowest weighting of a component is 0.49% (Salzgitter AG), (c) the mean weighting of the components is 3.33%, (d) the median weighting of the components is 1.70%, and (e) the total weighting of the top five highest weighted components is 43.55% (Siemens AG, E.ON AG, Bayer A, BASF SE, Allianz SE); (v) regarding component available shares, (a) the most available shares of a component is 4.36 billion (Deutsche Telekom AG), (b) the least available shares of a component is 60.01 million (Salzgitter AG), (c) the mean available shares of the components is 680.74 million, and (d) the median available shares of the components is 455.92 million; (vi) regarding the six month average daily volumes of the components, (a) the highest six month average daily volume of a component is 293.27 million (Deutsche Bank AG), (b) the lowest six month average daily volume of a component is 20.84 million (Fresenius SE) (c) the mean six month average daily volume of the components is 105.21 million, (d) the median six month average daily volume of the components is 78.44 million, (e) the average of six month average daily volumes of the five most heavily traded components is 1.18 billion (Deutsche Bank AG, Siemens AG, E.ON AG, Allianz SE, Daimler AG), and (f) 100% of the components had a six month average daily volume of at least 50,000.

Index Calculation and Index Maintenance

The base index value of the DAX Index was 1000, as of December 31, 1987. On February 16, 2010, the index value of the DAX Index was 5592.12. The Exchange believes that this level may be too high for successful options trading because the premium for options on the full value of the DAX Index are also likely to be high, which may deter retail investors. As a result, the Exchange proposes to base trading in options on a reduced value DAX Index. Specifically, the Exchange proposes to list options on the Mini DAX that are based on one-tenth of the value of the DAX. The Exchange believes that listing options on reduced values will attract a greater source of customer business. The Exchange further believes that listing options on a reduced value will provide an opportunity for investors to hedge, or speculate on, the market risk associated with the stocks comprising the DAX Index. Additionally, by reducing the value of the DAX Index, investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes that this should attract additional investors, and, in turn, create a more active and liquid trading environment.[9]

Index levels for options on the Mini DAX shall be calculated by DBAG or its agent, and shall be disseminated by ISE every 15 seconds during the Exchange's regular trading hours to market information vendors via the Options Price Reporting Authority ("OPRA").[10] The methodology used to calculate the value of the DAX Index is similar to the methodology used to calculate the value of other well-known market-capitalization weighted indexes. The

[4] *See* Investment Company Act Release No. 28166 (February 25, 2008), 73 FR 10828 (February 28, 2008).

[5] *See* Securities Exchange Act Release No. 35130 (December 20, 1994), 59 FR 66985 (December 28, 1994) (SR–CBOE–94–47) (Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on a Reduced-Value of the DAX).

[6] All decisions regarding the composition of and possible modifications to the DAX Index are exclusively made by the Management Board of DBAG, and are published in a press release and on *http://www.deutsche-boerse.com* in the evening after the Committee has concluded its meeting.

[7] *See* "Guide to the Equity Indices of Deutsche Börse," at *http://www.deutsche-boerse.com* for complete eligibility criteria.

[8] Float-adjusted market capitalization (as opposed to an unadjusted methodology) refers to the number of free-float shares available multiplied by the share price. A "free-float" index methodology usually excludes shares held by strategic investors by way of cross ownership, government ownership, private ownership and restricted share ownership.

[9] The concept of listing reduced value options on an index is not a novel one. For example, the Commission has previously approved the listing of reduced value options on the S&P 500 Index [*See* Exchange Act Release No. 34–32893 (September 14, 1993)], the Nasdaq 100 Index [*See* Exchange Act Release No. 34–43000 (July 10, 2000)], and the NYSE Composite Index [*See* Exchange Act Release No. 34–48681 (November 3, 2003)].

[10] The Exchange shall also disseminate these values to its members. The DAX Index will be published daily through major quotation vendors, such as ThomsonReuters.

level of the DAX Index reflects the float-adjusted market value of the component stocks relative to a particular base period and is computed by dividing the total market value of the companies in each index by its respective index divisor.[11]

The DAX Index is currently updated on a real-time basis from 9 a.m. to 5:45 p.m. (Frankfurt time), which generally corresponds to 3 a.m. to 11:45 a.m. (New York time). The Exchange, or its agent, shall disseminate Mini DAX Index values via OPRA or major market data vendors between 3 a.m. and 11:45 a.m. (New York time). After 11:45 a.m. (New York time), the Exchange, or its agent, shall disseminate a static value of the Mini DAX until the close of trading each day. The DAX Index is calculated using the last traded price of the component securities. If a component security does not open for trading, the price of that security at the close or the index on the previous day is used in the calculation.[12]

The DAX Index will be monitored and maintained by DBAG. DBAG will be responsible for making all necessary adjustments to the indexes to reflect component deletions, share changes, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to restructuring, mergers, or spin-offs involving the underlying components. Some corporate actions, such as stock splits and stock dividends, require simple changes to the available shares outstanding and the stock prices of the underlying components. Other corporate actions, such as share issuances, change the market value and would require changing the index divisor to effect adjustments.

The DAX Index is subject to a full review and, if necessary, ordinary adjustments are made once a year in September, where all components are screened for eligibility and ranked based on liquidity and market capitalization. Quarterly reviews are also performed in March, June, September and December, where components' free float levels are reviewed and extraordinary adjustments may be made. Specifically, any component with a weight greater than 10% will have its free float share count adjusted such that its weight will be reduced back down to 10%. Further, a component is generally replaced if its ranking among all eligible companies is lower than (worse than) 45. Similarly, an eligible candidate company is generally added if it's ranking among all eligible stocks is higher than (better than) or equal to 25. If a component company is deleted from the DAX Index between reviews as a result of a merger, takeover or other corporate action, the highest ranking company will replace it in the index.

Although the Exchange is not involved in the maintenance of the DAX Index, the Exchange represents that it will monitor the DAX Index on a quarterly basis, at which point the Exchange will notify the staff of the Division of Trading and Markets of the Commission by filing a proposed rule change pursuant to Rule 19b–4 and cease to list any additional series for trading, if, with respect to the DAX Index: (i) The number of securities in the DAX Index drops by 1/3rd or more; (ii) 10% or more of the weight of the DAX Index is represented by component securities having a market value of less than €50 million; (iii) 10% or more of the weight of the DAX Index is represented by component securities trading less than 20,000 shares per day; or (iv) the largest component security accounts for more than 15% of the weight of the DAX Index or the largest five components in the aggregate account for more than 50% of the weight of the DAX Index.

The Exchange will also notify the staff of the Division of Trading and Markets of the Commission immediately in the event DBAG ceases to maintain and calculate the DAX Index, or in the event values of the DAX Index are not disseminated every 15 seconds by a widely available source. In the event the DAX Index ceases to be maintained or calculated, or its values are not disseminated every 15 seconds by a widely available source, the Exchange will not list any additional series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

Exercise and Settlement Value

Options on the Mini DAX will expire on the Saturday following the third Friday of the expiration month. Trading in options on the Mini DAX will normally cease at 4:15 p.m. (New York time) on the Thursday preceding an expiration Saturday. The index value for exercise of the Mini DAX options will be calculated by DBAG based on the Xetra intra-day auction prices for each of the component companies. That value is also used as the basis for settlement of DAX Index futures and options contracts traded on Eurex. The intra-day auction occurs between 1:00 p.m. and 1:05 p.m. (German time) on the third Friday of the expiration month, which generally corresponds to 7 a.m. to 7:05 a.m. (New York time). Therefore, because trading in the expiring contract months will normally cease on a Thursday at 4:15 p.m. (New York time), the index value for exercise will be determined the day after trading has ceased, i.e., during the Friday afternoon Xetra trading session, or generally by 7:05 a.m. (New York time). If no price is established for a component company during the Xetra intraday auction, then the next available price is used. If no price is available by the end of the Xetra trading session then the last price available is used for calculation. When the auction is finished, the index values are disseminated as the settlement values. The settlement values are widely disseminated through major market data vendors including ThomsonReuters and Bloomberg.

If the Frankfurt Stock Exchange is closed on the Friday before expiration, but the ISE remains open, then the last trading day for expiring Mini DAX options will be moved earlier to Wednesday as if the ISE had had a Friday holiday. The settlement index value used for exercise will be calculated during Xetra's intra-day auction on Thursday morning.

Contract Specifications

The contract specifications for options on the Mini DAX are set forth in Exhibits 3–2. The Mini DAX is a broad-based index, as defined in Exchange Rule 2001(j). Options on the Mini DAX are European-style and A.M. cash-settled. The Exchange's standard trading hours for broad-based index options (9:30 a.m. to 4:15 p.m., New York time), as set forth in Rule 2008(a), will apply to the trading of options on the Mini DAX. Exchange rules that are applicable to the trading of options on broad-based indexes will also apply to the trading of Mini DAX options.[13] Specifically, the trading of Mini DAX options will be subject to, among others, Exchange rules governing margin requirements and trading halt procedures for index options. Further, Mini DAX options shall be quoted and traded in U.S. dollars.

[11] A divisor is an arbitrary number chosen at the starting date of an index to fix the index starting value. The divisor is adjusted periodically when capitalization amendments are made to the constituents of the index in order to allow the index value to remain comparable over time. Without a divisor the index value would change when corporate actions took place and would not reflect the true value of an underlying portfolio based upon the index.

[12] The DAX Index is published daily and is available real-time on ThomsonReuters, Bloomberg, and other market information systems which disseminate information on a real-time basis.

[13] *See* ISE Rules 2000 through 2012.

For options on the Mini DAX, the Exchange proposes to establish aggregate position limits at 250,000 contracts on the same side of the market, provided no more than 150,000 of such contracts are in the nearest expiration month series. These limits are identical to the limits that were approved for options on the FTSE Indexes previously approved by the Commission.[14] Additionally, under ISE Rule 2006, an index option hedge exemption for public customers may be available which may expand the position limit up to an additional 750,000 contracts.[15] Furthermore, proprietary accounts of members may receive an exemption of up to 500,000 contracts for the purpose of facilitating public customer orders.[16]

The Exchange proposes to apply broad-based index margin requirements for the purchase and sale of options on the Mini DAX. Accordingly, purchases of put or call options with 9 months or less until expiration must be paid for in full. Writers of uncovered put or call options must deposit/maintain 100% of the option proceeds, plus 15% of the aggregate contract value (current index level x $100), less any out-of-the-money amount, subject to a minimum of the option proceeds plus 10% of the aggregate contract value for call options and a minimum of the option proceeds plus 10% of the aggregate exercise price amount for put options.

The Exchange proposes to set minimum strike price intervals for Mini DAX options at 1 point intervals. The minimum tick size for series trading below $3 shall be $0.05, and for series trading at or above $3 shall be $0.10.

The Exchange proposes to list options on the Mini DAX in the three consecutive near-term expiration months plus up to three successive expiration months in the March cycle. For example, consecutive expirations of January, February, March, plus June, September, and December expirations would be listed.[17] The trading of options on the Mini DAX shall be subject to the same rules that presently govern the trading of Exchange index options, including sales practice rules, margin requirements, trading rules, and position and exercise limits. In addition, long-term option series having up to sixty months to expiration may be traded.[18] The trading of long-term Mini DAX options shall also be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements, and trading rules.

Chapter 6 of the Exchange's rules is designed to protect public customer trading and shall apply to the trading of options on the Mini DAX. Specifically, ISE Rules 608(a) and (b) prohibit Members from accepting a customer order to purchase or write an option unless such customer's account has been approved in writing by a designated Options Principal of the Member.[19] Additionally, ISE's Rule 610 regarding suitability is designed to ensure that options are only sold to customers capable of evaluating and bearing the risks associated with trading in this instrument. Further, ISE Rule 611 permits members to exercise discretionary power with respect to trading options in a customer's account only if the Member has received prior written authorization from the customer and the account had been accepted in writing by a designated Options Principal. ISE Rule 611 also requires designated Options Principals or Representatives of a Member to approve and initial each discretionary order on the day the discretionary order is entered. Finally, ISE Rule 609, Supervision of Accounts, Rule 612, Confirmation to Customers, and Rule 616, Delivery of Current Options Disclosure Documents and Prospectus, will also apply to trading in of options on the Mini DAX.

Surveillance and Capacity

The Exchange represents that it has an adequate surveillance program in place for options traded on the Mini DAX. The ISE Market Surveillance Department conducts routine surveillance in approximately 30 discrete areas. Index products and their respective symbols are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. This is true for both surveillance system processing and manual processes that support the ISE's surveillance program. Further, both ISE and the Frankfurt Stock Exchange, operated by DBAG, are members of the Intermarket Surveillance Group ("ISG"), created under the Intermarket Surveillance Group Agreement, dated June 20, 1994. Through its membership in the ISG, ISE may obtain trading information via the ISG from other exchanges who are members or affiliates of the ISG. The members of the ISG include all of the U.S. registered stock and options markets. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets.

Finally, the Exchange has the necessary systems capacity to support new options series that will result from the introduction of options on the Mini DAX, including LEAPS.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act") in general, and furthers the objectives of Section 6(b)(5) in particular in that it will permit options trading in the Mini DAX pursuant to rules designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[14] *See* Securities Exchange Act Release No. 53484 (March 14, 2006), 71 FR 14268 (March 21, 2006) (Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto Relating to Trading Options on Full and Reduced Values of the FTSE 100 Index and the FTSE 250 Index, Including Long-Term Options).

[15] The same limits that apply to position limits shall apply to exercise limits for these products.

[16] *See* ISE Rule 413(c).

[17] *See* Rule 2009(a)(3).

[18] *See* Rule 2009(b)(1). The Exchange is not listing reduced value LEAPS on the Mini DAX pursuant to Rule 2009(b)(2).

[19] Pursuant to ISE Rule 602, Representatives of a Member may solicit or accept customer orders for FCOs.

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2010–81 on the subject line.

Paper Comments

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–ISE–2010–81. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2010–81 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20406 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62688; File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–FINRA–2010–033; SR–ISE–2010–66; SR–NYSE–2010–49; SR–NYSEAmex-2010–63; SR–NYSEArca-2010–61; SR–NASDAQ–2010–079; SR–NSX–2010–08]

Self-Regulatory Organizations; BATS Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange LLC; NASDAQ OMX BX, Inc.; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Changes Relating to Trading Pauses Due to Extraordinary Market Volatility

August 11, 2010.

On June 30, 2010, each of BATS Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE Amex LLC, and NYSE Arca, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder,[3] proposed rule changes to amend certain of their respective rules to add additional securities to the single-stock circuit breaker pilot program.[4]

Section 19(b)(2) of the Act[5] provides that, within thirty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall either approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved. The 35th day for these filings is August 11, 2010.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider these proposed rule changes, which relate to the addition of additional securities to the single-stock circuit breaker pilot program, and the comment letters that have been submitted in connection with these filings.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates August 25, 2010, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule changes.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20366 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The single-stock circuit breaker pilot program was initially approved on June 10, 2010. *See* Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010); 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010).

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62695; File No. SR–EDGX–2010–11]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 3.13

August 11, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on August 3, 2010, EDGX Exchange, Inc. ("EDGX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend EDGX Rule 3.13 to conform it with FINRA Rule 5230 in order (i) for FINRA

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

to effectively examine for the rule pursuant to a Rule 17d–2 agreement that the Exchange has entered into with FINRA; and (ii) to modernize its terms and clarify its scope. The text of the proposed rule change is available on the Exchange's Web site at *http://www.directedge.com,* on the Commission's Web site at *http://www.sec.gov,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

EDGX Exchange, Inc. has entered into a Rule 17d–2 [3] agreement with FINRA pursuant to which FINRA surveils violations of rules in common between FINRA and EDGX. This agreement covers common members of EDGX and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) Examination of common members of EDGX and FINRA for compliance with Federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of common members of EDGX and FINRA for violations of Federal securities laws, rules or regulations, or Exchange rules that the Exchange has certified as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common members with the Federal securities laws, rules and regulations, and the rules of EDGX that the Exchange has certified as identical or substantially similar to FINRA rules.[4]

EDGX Rule 3.13 is identical to NASD Rule 3330, which was subsequently renumbered and amended to be FINRA Rule 5230.[5] FINRA, however, recently incorporated additional exceptions to this rule in order to "modernize its terms and clarify its scope."[6] After a consideration of the merits of such rule change, including the benefits of ensuring that Rule 3.13 would continue to be a common rule covered under the Exchange's Rule 17d–2 agreement with FINRA, EDGX is proposing to amend its Rule 3.13 to comport it with FINRA Rule 5230.

EDGX Rule 3.13 currently provides that no member may, "directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service, or similar publication, of any matter which has, or is intended to have, an effect upon the market price of any security. * * *" The rule includes an exception for any matter that is "clearly distinguishable as paid advertising."

EDGX agrees with FINRA's reasoning for proposing changes to its Rule 5230. Therefore, EDGX is proposing two changes to EDGX Rule 3.13 to modernize its terms and clarify its scope.[7] First, the proposed rule change updates the list of media to which the rule refers since Rule 3.13 refers only to matters published or circulated in any "newspaper, investment service, or similar publication." The proposed rule change updates this language to include electronic and other types of media, including magazines, Web sites, and television programs. Second, the proposed rule change expands the exceptions in the rule beyond paid advertising to also include compensation paid in connection with research reports and communications published in reliance on Section 17(b) of the Securities Act of 1933.[8] EDGX is proposing these changes to clarify that the prohibitions in the rule are not intended to cover compensation paid for publications that are explicitly permitted pursuant to other rules. For example, Rule 3.13 could be read to prohibit a member from paying for a third-party research report if the report affected the market price of a security. However, EDGX does not believe that the rule should be read to prohibit compensation paid in connection with the publication of information that is specifically permitted pursuant to Section 17(b) of the Securities Act of 1933, provided the required disclosures are made.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Section 6(b)(5) of the Act [10] in particular, which requires, among other things, that Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. EDGX believes that the proposed rule change will clarify the scope of the rule as well as allow FINRA to be able to examine for it under a Rule 17d–2 agreement since it will be identical to FINRA Rule 5230, as proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on

[3] 17 CFR 240.17d–2.

[4] *See* Securities and Exchange Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (approving File No. 10–196).

[5] *See* Securities and Exchange Release No. 60648 (September 10, 2009), 74 FR 47837 (September 17, 2009) (SR–FINRA–2009–048).

[6] *See* Securities and Exchange Release No. 60648 (September 10, 2009), 74 FR 47837 (September 17, 2009) (SR–FINRA–2009–048).

[7] The proposed rule changes also changes the title of the rule to "Payments Involving Publications that Influence the Market Price of a Security."

[8] Section 17(b) of the Securities Act of 1933 provides that no person may "publish, give publicity to, or circulate any * * * communication which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof." 15 U.S.C. 77q(b).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–EDGX–2010–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2010–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2010–11 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20474 Filed 8–17–10; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62709; File No. SR–NASDAQ–2010–097]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by The NASDAQ Stock Market LLC To Amend Exchange Rules Related to the Cut-off Time for Contrary Exercise Advice Submissions

August 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 3, 2010, The NASDAQ Stock Market LLC ("NASDAQ") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ is filing with the Commission a proposal for the NASDAQ Options Market ("NOM" or "Exchange") to amend Chapter VIII, Section 1 (Exercise of Options Contracts) to make changes to extend the cut-off time to submit contrary exercise advices ("Contrary Exercise Advices" or "CEAs").[3] The Exchange also proposes to make certain non-substantive changes to reorganize the text of Chapter VIII, Section 1 to more clearly present the existing requirements and to eliminate duplicative language.

The text of the proposed rule change is available on NASDAQ's Web site at *http://nasdaq.cchwallstreet.com/Filings/,* at NASDAQ's principal office, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to make changes to Chapter VIII, Section 1 to extend the cut-off time to submit Contrary Exercise Advices to the Exchange; to extend exercise cut-off deadlines to Quarterly Options Series; and to make certain non-substantive changes to reorganize the text of Section 1 to more clearly present the existing requirements and to eliminate duplicative language.[4]

[3] Contrary Exercise Advices are also referred to as Expiring Exercise Declarations ("EED") in the rules of The Options Clearing Corporation.

[4] The Exchange proposes to reorganize the current rule text of Chapter VIII, Section 1 so that the requirement that exercise decisions must be made by 5:30 p.m. Eastern Time is specified in paragraph (c), while the requirements pertaining to submitting CEA instructions are contained in new paragraph (d). The language in new paragraph (d) is comprised

Background

The Options Clearing Corporation ("OCC") has an established procedure, under OCC Rule 805, that provides for the automatic exercise of certain options that are in-the-money by a specified amount known as "Exercise-by-Exception" or "Ex-by-Ex." Under the Ex-by-Ex process, options holders holding option contracts that are in-the-money by a requisite amount and who wish to have their contracts automatically exercised need take no further action. However, under OCC Rule 805, option holders who do not want their options automatically exercised or who want their options to be exercised under different parameters than that of the Ex-by-Ex procedures must instruct OCC of their "contrary intention."

In addition to and separately from the OCC requirement, under Chapter VIII, Section 1 option holders must file a CEA with the Exchange notifying it of the contrary intention.[5] Chapter VIII, Section 1 is designed, in part, to deter individuals from taking improper advantage of late breaking news by requiring evidence of an option holder's timely decision to exercise or not exercise expiring equity options. Participants satisfy this evidentiary requirement by submitting a CEA form to the Exchange, or by electronically submitting the CEA through OCC's electronic communications system. The submission of the CEA allows the Exchange to satisfy its regulatory obligation to verify that the decision to make a contrary exercise was made timely and in accordance with Chapter VIII, Section 1.

Currently under Chapter VIII, Section 1, option holders have until 5:30 p.m.[6] on the day prior to expiration to make a final decision to exercise or not exercise an expiring option that would otherwise either expire or be automatically exercised. An Exchange Participant may not accept CEA instructions from its customer or non customer accounts after 5:30 p.m. However, the current rule gives Participants an additional one hour, up to 6:30 p.m., to submit these CEA instructions where such Participants use an electronic submission process.[7]

This current process allowing exchange members an additional one hour after the decision making cut off time of 5:30 p.m. to submit a CEA to the various options exchanges was approved by the Commission in 2003 for the existing options exchanges;[8] and was approved in 2008 for NASDAQ in respect of Participants.[9] When initially approved in 2003, the Ex-by-Ex thresholds were $0.75 for customers and $0.25 for broker-dealer accounts. In 2009, the Ex-by-Ex threshold was $0.01 for all accounts. This decrease in the Ex-by-Ex threshold, coupled with the dramatic increase in option trading volume from 2003 to 2009, has led to a larger number of CEA instructions and has increased the burden on firms to process and submit instructions timely.

The Proposals

The Exchange proposes to extend the current 6:30 p.m. deadline in Chapter VIII, Section 1 for submitting CEA instructions to the Exchange by one additional hour, up to 7:30 p.m.[10] The Exchange believes that this proposed rule change is necessary to address concerns expressed by members (Participants) that, given the decrease in the Ex-by-Ex threshold and the increase in trading, the existing deadline for submitting CEAs to the Exchange is problematic for timely back-office processing. The proposed additional one hour will address this concern by further enabling firms to more timely manage, process, and submit the instructions to the Exchange.

The Exchange also proposes to modify the language in paragraph (g) of the current rule (new paragraph (h)), which allows a Participant up to 2 hours and 30 minutes to submit a CEA to the Exchange in the event of a modified close of trading on the day of expiration, by removing the two hour and thirty minute restriction and allowing a Participant to submit a CEA to the Exchange in the event of a modified close of trading of up to the proposed 7:30 p.m. deadline. This will make consistent the submission deadline for both regular and modified close expiration days. Moreover, this will provide uniformity with submission deadlines for both regular and modified close expiration days which will remove any possibility for error when determining what the submission deadline is on any modified close expiration day.[11]

It is important to note that this proposed submission deadline does not change the substantive requirement that option holders make a final decision by 5:30 p.m. The Exchange will continue to enforce the 5:30 p.m. decision making requirement, while also allowing additional time to process and submit the CEA instructions. This proposal seeks to increase that additional submission time by one hour, and the Exchange believes that this proposal will be beneficial to the marketplace, particularly as it concerns back-office processing. This proposed additional processing time and submission deadline will not conflict with OCC submission rules or cause any OCC processing issues. The initiative to address Exchange member (Participant) concerns is industry-wide, and the Exchange anticipates that other options exchanges will also propose a one hour extension for which they will accept a CEA.[12]

The Exchange also proposes to impose the same cutoff deadlines in Chapter VIII, Section 1(c) to QOS as to non-QOS (*e.g.* equity) options. QOS are listed and traded on the Exchange pursuant to Chapter XIV, Section 11 (Terms of Index Options Contracts). The proposed change reflects the applicability of CEA cut-off deadlines to QOS options and conforms Chapter VIII, Section 1 with Chapter XIV, Section 11 of the Exchange's rules and with the CEA rules of other options exchanges.[13]

Finally, the Exchange also proposes non-substantive, housekeeping changes

of language moved from paragraph (b)(ii) and paragraph (c) of the current rule. The Exchange also proposes to eliminate Supplementary Material .03 to Chapter VIII, Section 1 because it is duplicative of certain language contained in paragraph (c) of the current rule and paragraph (d) in the proposal.

[5] Referenced submissions of CEAs to OCC are through Participants' clearing firms.

[6] Referenced times are to Eastern Standard Time (EST).

[7] Chapter VIII, Section 1 indicates that if Participants do not employ an electronic submission procedure, they are required to submit CEAs for non-customer accounts by the 5:30 p.m. deadline. This deadline for manual submission is required in order to prevent improperly extending the 5:30 p.m. deadline to exercise or not exercise an option. This requirement is based on the difficulty in monitoring a manual procedure that has different times for deciding whether or not to exercise the option and for the submission of the CEA.

[8] *See* Securities Exchange Act Release Nos. 47885 (May 16, 2003), 68 FR 28309 (May 23, 2003) (SR–Amex–2001–92); 48505 (September 17, 2003), 68 FR 55680 (September 26, 2003) (SR–ISE–2003–20); 48640 (October 16, 2003), 68 FR 60757 (October 23, 2003) (SR–PCX–2003–47); and 48639 (October 16, 2003), 68 FR 60764 (October 23, 2003) (SR–Phlx–2003–65).

[9] *See* Securities Exchange Act Release No. 57478 (May 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080).

[10] To clarify Chapter VIII, Section 1 so that it is similar to CEA rules of other options exchanges, such as ISE Rule 1100, the Exchange proposes to incorporate in Section 1 the concept that instructions are submitted to the Exchange.

[11] CEA procedures in respect of index options are discussed separately in Chapter VIII, Section 1(k) (new paragraph (l)).

[12] The Commission approved a rule change proposal of the International Stock Exchange LLC ("ISE") related to extension of the cutoff time for CEA submissions. *See* Securities Exchange Act Release No. 61710 (March 15, 2010), 75 FR 13636 (March 22, 2010) (SR–ISE–2010–02) (order approving). The Exchange's rule change proposal is based on SR–ISE–2010–02, and the Exchange believes that other options exchanges will submit similar filings to the Commission.

[13] *See, e.g.,* ISE Rule 1100(c).

such as clarifying the name of The Options Clearing Corporation in Chapter VIII, Section 1(b).

The Exchange recognizes that the industry-wide scope of the Exchange's rule change proposal and other similar proposals will require coordinated effectiveness of the expansion to 7:30 p.m. If the operative date of this proposed rule change is more than five business days prior to the date of the next expiration Friday, *i.e.* the third Friday of the month ("Expiration Friday"),[14] the Exchange will implement its proposed rule change so as to be effective for that Expiration Friday. If the operative date of this proposed rule change is five business days or less prior to the date of the next Expiration Friday, the Exchange will implement the rule change so as to be effective for the following Expiration Friday. The Exchange will notify its Participants of the implementation date of the rule change via an Options Regulatory Alert ("ORA") or Options Trader Alert ("OTA").

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[15] in general, and furthers the objectives of Section 6(b)(5) of the Act[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. This proposed rule change will foster coordination with back office personnel engaged in processing information and is consistent with the facilitating of transactions in securities as set forth in Section 6(b)(5), by providing Exchange Participants an additional hour within which to complete the necessary processing of CEAs and thereby decreasing Exchange Participants' burden of processing an increasing number of contrary exercise advices and enabling them to more easily manage and process these instructions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2010–097 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2010–097. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NASDAQ–2010–097 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20472 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

[14] For example, Expiration Friday for August 2010 options will be August 20, 2010, and Expiration Friday for September options will be September 17, 2010.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62710; File No. SR–Phlx–2010–109]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. To Amend Exchange Rules Related to the Cut-Off Time for Contrary Exercise Advice Submissions

August 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4[2] thereunder, notice is hereby given that on August 3, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1042 (Exercise of Equity Options Contracts) to extend the cut-off time to submit contrary exercise advices ("Contrary Exercise Advices" or "CEAs") [3] to the Exchange. The Exchange also proposes to make certain non-substantive changes to reorganize the text of Rule 1042 to more clearly present the existing requirements and to eliminate duplicative language.[4]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[3] Contrary Exercise Advices are also referred to as Expiring Exercise Declarations ("EED") in the rules of The Options Clearing Corporation.

[4] An Exchange Rule may have an Options Floor Procedure Advice ("OFPA" or "Advice") that corresponds to the rule. OFPA F–35 (Violations of Exercise and Exercise Advice Rules for Noncash-Settled Equity Option Contracts) is a corresponding Advice to Rule 1042 and is part of the Exchange's minor rule plan. The Exchange's minor rule plan consists of Advices with preset fines, pursuant to Rule 19d–1(c) under the Act. 17 CFR 240.19d–1(c). For exercise procedures in respect of index option contracts, *see* Rule 1042A (Exercise of Option Contracts) and corresponding OFPA G–1 (Index Options Exercise Advice Forms). The Exchange is not proposing any changes to Rule 1042A or OFPAs F–35 or G–1.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to make changes to Rule 1042 to extend the cut-off time to submit Contrary Exercise Advices; to extend exercise cut-off deadlines to Quarterly Options Series; and to make certain non-substantive changes to reorganize the text of Rule 1042 to more clearly present the existing requirements and to eliminate duplicative language.[5]

Background

The Options Clearing Corporation ("OCC") has an established procedure, under OCC Rule 805, that provides for the automatic exercise of certain options that are in-the-money by a specified amount known as "Exercise-by-Exception" or "Ex-by-Ex." Under the Ex-by-Ex process, options holders holding option contracts that are in-the-money by a requisite amount and who wish to have their contracts automatically exercised need take no further action. However, under OCC Rule 805, option holders who do not want their options automatically exercised or who want their options to be exercised under different parameters than that of the Ex-by-Ex procedures must instruct OCC of their "contrary intention."

In addition to and separately from the OCC requirement, under Exchange Rule 1042 option holders must file a CEA with the Exchange notifying it of the contrary intention. Rule 1042 is designed, in part, to deter individuals from taking improper advantage of late breaking news by requiring evidence of an option holder's timely decision to exercise or not exercise expiring equity options. Members satisfy this evidentiary requirement by submitting a CEA form to the Exchange, or by electronically submitting the CEA to the Exchange through OCC's electronic communications system. The submission of the CEA allows the Exchange to satisfy its regulatory obligation to verify that the decision to make a contrary exercise was made timely and in accordance with Rule 1042.

Currently under Rule 1042, option holders have until 5:30 p.m.[6] on the day prior to expiration to make a final decision to exercise or not exercise an expiring option that would otherwise either expire or be automatically exercised. An Exchange member may not accept CEA instructions from its customer or non customer accounts after 5:30 p.m. However, the current rule gives Exchange members an additional one hour, up to 6:30 p.m., to submit these CEA instructions to the Exchange where such members use an electronic submission process.[7]

This current process allowing members an additional one hour after the decision making cut off time of 5:30 p.m. to submit a CEA to the various options exchanges was approved by the Commission in 2003 for the existing options exchanges;[8] and for an additional options exchange in 2008.[9] When initially approved in 2003, the Ex-by-Ex thresholds were $0.75 for customers and $0.25 for broker-dealer accounts. In 2009, the Ex-by-Ex threshold was $0.01 for all accounts. This decrease in the Ex-by-Ex threshold, coupled with the dramatic increase in option trading volume from 2003 to 2009, has led to a larger number of CEA instructions and has increased the burden on firms to process and submit instructions timely.

The Proposals

The Exchange proposes to extend the current 6:30 p.m. deadline in Rule 1042 for submitting CEA instructions to the Exchange by one additional hour, up to 7:30 p.m. The Exchange believes that this proposed rule change is necessary to address concerns expressed by members that, given the decrease in the Ex-by-Ex threshold and the increase in

[5] The Exchange proposes to reorganize the current rule text of Rule 1042 so that the requirement that exercise decisions must be made by 5:30 p.m. is specified in paragraph (c), while the requirements pertaining to submitting CEA instructions are contained in new paragraph (d). The language in new paragraph (d) is comprised of language moved from paragraph (b)(ii) and paragraph (c) of the current rule. The Exchange also proposes to eliminate Supplementary Material .04 to Rule 1042 because it is duplicative of the language contained in paragraph (c) of the current rule and paragraph (d) in the proposal.

[6] Referenced times are Eastern Standard Time (EST).

[7] Rule 1042 indicates that if members do not employ an electronic submission procedure, they are required to submit CEAs for non-customer accounts by the 5:30 p.m. deadline. This deadline for manual submission is required in order to prevent firms from improperly extending the 5:30 p.m. deadline to exercise or not exercise an option. This requirement is based on the difficulty in monitoring a manual procedure that has different times for deciding whether or not to exercise the option and for the submission of the CEA.

[8] *See* Securities Exchange Act Release Nos. 47885 (May 16, 2003), 68 FR 28309 (May 23, 2003) (SR–Amex–2001–92); 48505 (September 17, 2003), 68 FR 55680 (September 26, 2003) (SR–ISE–2003–20); 48640 (October 16, 2003), 68 FR 60757 (October 23, 2003) (SR–PCX–2003–47); and 48639 (October 16, 2003), 68 FR 60764 (October 23, 2003) (SR–Phlx–2003–65).

[9] *See* Securities Exchange Act Release No. 57478 (May 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080).

trading, the existing deadline for submitting CEAs to the Exchange is problematic for timely back-office processing. The proposed additional one hour will address this concern by further enabling firms to more timely manage, process, and submit the instructions to the Exchange.

The Exchange also proposes to modify the language in paragraph (g) of the current rule (new paragraph (h)), which allows a member up to 2 hours and 30 minutes to submit a CEA to the Exchange in the event of a modified close of trading on the day of expiration, by removing the two hour and thirty minute restriction and allowing a member to submit a CEA to the Exchange in the event of a modified close of trading of up to the proposed 7:30 p.m. deadline. This will make consistent the submission deadline for both regular and modified close expiration days. Moreover, this will provide uniformity with submission deadlines for both regular and modified close expiration days which will remove any possibility for error when determining what the submission deadline is on any modified close expiration day.

It is important to note that this proposed submission deadline does not change the substantive requirement that option holders make a final decision by 5:30 p.m. The Exchange will continue to enforce the 5:30 p.m. decision making requirement, while also allowing additional time to process and submit the CEA instructions. This proposal seeks to increase that additional submission time by one hour, and the Exchange believes that this proposal will be beneficial to the marketplace, particularly as it concerns back-office processing. This proposed additional processing time and Exchange submission deadline will not conflict with OCC submission rules or cause any OCC processing issues. The initiative to address Exchange member concerns is industry-wide, and the Exchange anticipates that other options exchanges will also propose a one hour extension for which they will accept a CEA.[10]

The Exchange also proposes to impose the same cutoff deadlines in Rule 1042(c) to QOS as to non-QOS (*e.g.* equity) options. QOS are listed and traded on the Exchange pursuant to Rule 1012 (Series of Options Open for Trading). The proposed change reflects the applicability of CEA cut-off deadlines to QOS options and conforms Rule 1042 with Rule 1012 and with the CEA rules of other options exchanges.[11]

The Exchange recognizes that the industry-wide scope of the Exchange's rule change proposal and other similar proposals will require coordinated effectiveness of the expansion to 7:30 p.m. If the operative date of this proposed rule change is more than five business days prior to the date of the next expiration Friday, *i.e.* the third Friday of the month ("Expiration Friday"),[12] the Exchange will implement its proposed rule change so as to be effective for that Expiration Friday. If the operative date of this proposed rule change is five business days or less prior to the date of the next Expiration Friday, the Exchange will implement the rule change so as to be effective for the following Expiration Friday. The Exchange will notify its Participants of the implementation date of the rule change via an Options Regulatory Alert ("ORA") or Options Trader Alert ("OTA").

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(5) of the Act[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. This proposed rule change will foster coordination with back office personnel engaged in processing information and is consistent with the facilitating of transactions in securities as set forth in Section 6(b)(5), by providing Exchange members an additional hour within which to complete the necessary processing of CEAs and thereby decreasing Exchange members' burden of processing an increasing number of contrary exercise advices and enabling them to more easily manage and process these instructions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2010–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

[10] The Commission approved a rule change proposal of the International Stock Exchange LLC ("ISE") related to extension of the cutoff time for CEA submissions. *See* Securities Exchange Act Release No. 61710 (March 15, 2010), 75 FR 13636 (March 22, 2010) (SR–ISE–2010–02) (order approving). The Exchange's rule change proposal is based on SR–ISE–2010–02, and the Exchange believes that other options exchanges will submit similar filings to the Commission.

[11] *See, e.g.,* ISE Rule 1100(c).

[12] For example, Expiration Friday for August 2010 options will be August 20, 2010, and Expiration Friday for September options will be September 17, 2010.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2010–109. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Phlx–2010–109 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20471 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62713; File No. SR–BATS–2010–021]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rule 23.1, Entitled "Exercise of Options Contracts"

August 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS 23.1, entitled "Exercise of Options Contracts," in order to extend the cut-off time to submit contrary exercise advices.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 23.1 to extend the cut-off time to submit contrary exercise advices (each a "Contrary Exercise Advice", or, "CEA")[5] to the Exchange. The Exchange also proposes to make certain non-substantive changes to reorganize the text of Rule 23.1 to more clearly present the existing requirements and to eliminate duplicative language.[6]

The Options Clearing Corporation ("OCC") has an established procedure, under OCC Rule 805, that provides for the automatic exercise of certain options that are in-the-money by a specified amount known as "Exercise-by-Exception" or "Ex-by-Ex." Under the Ex-by-Ex process, options holders holding option contracts that are in-the-money by a requisite amount and who wish to have their contracts automatically exercised need take no further action. However, under OCC Rule 805, option holders who do not want their options automatically exercised or who want their options to be exercised under different parameters than that of the Ex-by-Ex procedures must instruct OCC of their "contrary intention."

In addition to the OCC requirement, option holders must file a CEA with the Exchange in accordance with Exchange Rule 23.1. Rule 23.1 is designed, in part, to deter individuals from taking improper advantage of late breaking news by requiring evidence of an option holder's timely decision to exercise or not exercise expiring equity options. Members satisfy this evidentiary requirement by electronically submitting the CEA to the Exchange through OCC's electronic communications system or any other means prescribed by the Exchange. The submission of the CEA allows the Exchange to satisfy its regulatory obligation to verify that the decision to make a contrary exercise was made timely and in accordance with Rule 23.1.

Currently under Rule 23.1, option holders have until 5:30 p.m.[7] on the day prior to expiration to make a final decision to exercise or not exercise an expiring option that would otherwise either expire or be automatically exercised. An Exchange member may

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] Contrary Exercise Advices are also referred to as Expiring Exercise Declarations ("EED") in the OCC rules.

[6] The Exchange proposes to reorganize the current rule text so that the requirement that exercise decisions must be made by 5:30 p.m. Eastern Time is specified in paragraph (c), while the requirements pertaining to submitting CEA instructions are contained in new paragraph (d). The language in new paragraph (d) is comprised of language moved from paragraph (b)(2) and paragraph (c) of the current rule. The Exchange also proposes to eliminate Interpretation and Policy .03 to Rule 23.1 because it is duplicative of the language contained in paragraph (c) of the current rule and paragraph (d)(iii) in the proposal.

[7] All referenced times are Eastern Time.

not accept CEA instructions from its customer or non customer accounts after 5:30 p.m. However, the current rule gives Exchange members an additional one hour, up to 6:30 p.m., to submit these CEA instructions to the Exchange where such member uses an electronic submission process.[8]

The current process allowing members an additional one hour after the decision making cut off time of 5:30 p.m. to submit a CEA to the various options exchanges was approved by the Commission in 2003.[9]

The Exchange proposes to extend the current 6:30 p.m. deadline for submitting CEA instructions to the Exchange by one additional hour, up to 7:30 p.m. The Exchange believes that this proposed rule change is necessary to maintain consistency with the rules of other exchanges that have recently, or are in the process of, amending their rules. The Exchange understands that such amendments are intended to address concerns expressed by members of various options exchanges that, given the decrease in the Ex-by-Ex threshold and the increase in trading, the existing deadline for submitting CEAs under existing rules is problematic for timely back-office processing. The proposed additional one hour will address this concern by further enabling firms to more timely manage, process, and submit the instructions to the Exchange. The Exchange also proposes to modify the language in paragraph (g) of the current rule (new paragraph (h)), which allows a member up to 2 hours and 30 minutes to submit a CEA to the Exchange in the event of a modified close of trading on the day of expiration, by removing the two hour and thirty minute restriction and allowing a member to submit a CEA to the Exchange in the event of a modified close of trading of up to the proposed 7:30 p.m. deadline. This will make consistent the submission deadline for both regular and modified close expiration days. Moreover, this will provide uniformity with submission deadlines for both regular and modified close expiration days which will remove any possibility for error when determining what the submission deadline is on any modified close expiration day.

In addition to the changes described above, the Exchange proposes to add language to Rule 23.1(c) to require that with respect to Quarterly Options Series the 5:30 p.m. Eastern Time deadline applies on the expiration date rather than on the business day immediately prior to the expiration date. Standard options contracts expire on the third Saturday of the applicable expiration month; because the Exchange desires to have all submissions occur on business days rather than weekend days, the Exchange requires Options Members to follow the Contrary Exercise Advice process by no later than 5:30 on the business day immediately prior to expiration for standard options contracts. In contrast, Quarterly Options Series expire on a fixed day that is never a weekend day, specifically the last business day of each calendar quarter, and thus, the Exchange believes it appropriate to require Contrary Exercise Advice filings on the expiration date for any Quarterly Options Series.[10]

It is important to note that this proposed submission deadline does not change the substantive requirement that option holders make a final decision by 5:30 p.m. The Exchange will continue to enforce the 5:30 p.m. decision making requirement, while also allowing additional time to process and submit the CEA instructions. This proposal seeks to increase that additional submission time by one hour, and the Exchange believes that this proposal will be beneficial to the marketplace, particularly as it concerns back-office processing. The initiative to address Exchange member concerns is industry-wide, a rule change regarding this matter has already been approved,[11] and the Exchange anticipates that other options exchanges will also propose a one hour extension for which they will accept a CEA. This proposed additional processing time and Exchange submission deadline will not conflict with OCC submission rules or cause any OCC processing issues.

If the operative date of this proposed rule change is more than 5 business days prior to the date of the next expiration Friday, *i.e.,* the third Friday of the month ("Expiration Friday"),[12] the Exchange will implement the rule change so as to be effective for that Expiration Friday. If the operative date of this proposed rule change is 5 business days or less prior to the date of the next Expiration Friday, the Exchange will implement the rule change so as to be effective for the following Expiration Friday. The Exchange will notify Members of the implementation date of the rule change via a Regulatory Circular.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[13] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[14] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. Specifically, the Exchange believes that the proposed amendment will foster coordination with back office personnel engaged in processing information and is consistent with the facilitating of transactions in securities as set forth in Section 6(b)(5) in that it, by providing Exchange Members an additional hour within which to complete the necessary processing of CEAs, will thereby decrease Exchange Members' burden of processing an increasing number of contrary exercise advices and enable them to more easily manage and process these instructions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[8] If members do not employ an electronic submission procedure, they are required to submit CEAs for non-customer accounts by the 5:30 p.m. deadline. This deadline for manual submission is required in order to prevent firms from improperly extending the 5:30 p.m. deadline to exercise or not exercise an option. This requirement is based on the difficulty in monitoring a manual procedure that has different times for deciding whether or not to exercise the option and for the submission of the CEA.

[9] *See* Securities Exchange Act Release No. 47885 (May 16, 2003), 68 FR 28309 (May 23, 2003) (SR–AMEX–2001–92); Securities Exchange Act Release No. 48505 (September 17, 2003), 68 FR 55680 (September 26, 2003) (SR–ISE–2003–20); Securities Exchange Act Release No. 48640 (October 16, 2003), 68 FR 60757 (October 23, 2003) (SR–PCX–2003–47); and Securities Exchange Act Release No. 48639 (October 16, 2003), 68 FR 60767 (October 23, 2003) (SR–Phlx-2003–65).

[10] *See* BATS Rule 19.6, Interpretation and Policy .04.

[11] *See* Securities Exchange Act Release No. 61710 (March 15, 2010), 75 FR 13636 (March 22, 2010) (SR–ISE–2010–02) (order approving proposed rule change submitted by ISE relating to the cut-off time for submitting contrary exercise advices).

[12] For example, Expiration Friday for August 2010 options will be August 20, 2010; Expiration Friday for September options will be September 17, 2010.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BATS–2010–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2010–021. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BATS–2010–021 and should be submitted on or before September 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20468 Filed 8–17–10; 8:45 am]

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[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62702; File No. SR–FINRA–2010–026]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving the Proposed Rule Change To Adopt FINRA Rule 5121 (Public Offerings of Securities With Conflicts of Interest) in the Consolidated FINRA Rulebook

August 12, 2010.

I. Introduction

The Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") on May 20, 2010, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposal to adopt FINRA Rule 5121 (Public Offerings of Securities With Conflicts of Interest) ("Rule") in the Consolidated FINRA Rulebook. This proposal was published for comment in the **Federal Register** on June 4, 2010.[3] The Commission received one comment on the proposal,[4] and a letter from FINRA responding to the comment letter.[5] This order approves this proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposed Rule Change

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),[6] FINRA proposed to adopt NASD Rule 2720 (Public Offerings of Securities With Conflicts of Interest) without material change as FINRA Rule 5121 in the Consolidated FINRA Rulebook.

NASD Rule 2720 governs public offerings of securities in which a member with a conflict of interest participates. The rule generally prohibits a member with a "conflict of interest," as defined in the rule,[7] from participating in a public offering, unless certain other requirements are met.[8]

[3] Exchange Act Release No. 62199 (June 1, 2010), 75 FR 31825 (June 4, 2010) (SR–FINRA–2010–026).

[4] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Jeffrey W. Rubin, Chair, Committee on Federal Regulation of Securities, American Bar Association dated June 22, 2010 ("ABA letter").

[5] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Stan Macel, Assistant General Counsel, FINRA, dated July 23, 2010 ("FINRA Response Letter").

[6] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[7] As defined in NASD Rule 2720(f)(5), a conflict of interest exists, if at the time of a member's participation in an entity's public offering, any of the following four conditions applies: (1) The securities are to be issued by the member; (2) the issuer controls, is controlled by or is under common control with the member or the member's associated persons; (3) at least five percent of the net offering proceeds, not including underwriting compensation, are intended to be (i) used to reduce or retire the balance of a loan or credit facility extended by the member, its affiliates and its associated persons, in the aggregate; or (ii) otherwise directed to the member, its affiliates and associated persons, in the aggregate; or (4) if, as a result of the public offering and any transactions contemplated at the time of the public offering (i) the member will be an affiliate of the issuer; (ii) the member will become publicly owned; or (iii) the issuer will become a member or form a broker-dealer subsidiary. NASD Rule 2720 defines several terms for purposes of the rule, including "entity," "control," and "common control."

[8] The rule requires prominent disclosure of the nature of the conflict, and in certain circumstances,

Continued

There is no comparable Incorporated NYSE Rule.

On June 15, 2009, the SEC approved a proposed rule change to modernize NASD Rule 2720 (the "2009 Rule Change").[9] The 2009 Rule Change became effective on September 14, 2009.[10]

The proposed rule change would adopt NASD Rule 2720 without material change as FINRA Rule 5121 in the Consolidated FINRA Rulebook. The proposal would make minor changes to the Rule to reflect the new terminology conventions of the Consolidated FINRA Rulebook.

III. Comment Letters

The Commission received one comment letter in response to the proposed rule change.[11] The Commission also received FINRA's response to comments.[12] While the commenter had no objection to the proposal itself to move NASD Rule 2720 without material change into the Consolidated FINRA Rulebook, the commenter did offer a number of comments about the substance of the Rule. The specific comments from this letter, as well as FINRA's response, are discussed in detail below.

The commenter suggested that FINRA clarify what "participation in a public offering" means for purposes of the Rule and suggested an alternative definition. FINRA responded that "participation in a public offering" for purposes of the Rule are already widely understood and that the alternative definition suggested by the commenter would be an inappropriate narrowing of the Rule.

The commenter also suggested that FINRA clarify what "primarily responsible for managing the public offering" means for purposes of the Rule and suggested an alternative for the term. FINRA asserted that the commenter's alternative would inappropriately narrow the application of the Rule and that the Rule as written provided FINRA flexibility to keep pace with developments in the underwriting process while also acknowledging the varied roles its members play currently.

The commenter also offered an alternative to the experience standard necessary to qualify as a "qualified independent underwriter" under the Rule. FINRA recognized the issue raised by the commenter and stated their intention to take a more comprehensive review of the matter. FINRA also pointed out that they have exemptive authority in extreme circumstances where the standard may unnecessarily limit the availability of a qualified independent underwriter.

The commenter also suggested that FINRA clarify that the definition of "affiliate" used in the Rule only applies to the Rule. FINRA did not agree with this change and stated the thrust of this comment was directed at rules beyond the rule proposal.

Lastly, the commenter suggested that FINRA amend the definition of "entity" used in the Rule to except financing instrument-backed securities from being considered an "entity" for purposes of the Rule. FINRA points out that these securities were purposefully not included in the exceptions to the definition of "entity."

IV. Discussion and Findings

After careful review of the proposed rule change, the comment, and FINRA's response to the comment, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.[13] In particular, the Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[14] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the Rule continues regulation that protects investors in offerings where the member has a conflict of interest. The Commission also notes that FINRA is adopting NASD Rule 2720 into the Consolidated FINRA Rulebook as FINRA Rule 5121 without material change.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (File No. SR–FINRA–2010–026) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–20365 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

the participation of a qualified independent underwriter. Members also must comply with certain net capital, discretionary accounts and filing requirements, as applicable.

[9] *See* Securities Exchange Act Release No. 60113 (June 15, 2009), 74 FR 29255 (June 19, 2009) (File No. SR–FINRA–2007–009).

[10] *See Regulatory Notice* 09–49 (SEC Approves Amendments to Modernize and Simplify NASD Rule 2720 Relating to Public Offerings in Which a Member Firm With a Conflict of Interest Participates) (August 2009).

[11] *See* ABA Letter.

[12] *See* FINRA Response Letter.

[13] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78o–3(b)(6).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9133; 34–62699; File No. 4–607]

Notice of Solicitation of Public Comment on Consideration of Incorporating IFRS Into the Financial Reporting System for U.S. Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Request for comment.

SUMMARY: The Securities and Exchange Commission is requesting public comment on behalf of the staff on three topics related to its ongoing consideration of incorporating International Financial Reporting Standards ("IFRS") into the financial reporting system for U.S. issuers. These three topics, derived from the staff's work plan on consideration of the incorporation of IFRS, involve the impact of such incorporation on: U.S. investors' current knowledge of IFRS and preparedness for incorporation of IFRS into the financial reporting system for U.S. issuers; how investors educate themselves on changes in accounting standards and the timeliness of such education; and the extent of, logistics for, and estimated time necessary to undertake changes to improve investor understanding of IFRS and the related education process to ensure investors have a sufficient understanding of IFRS prior to potential incorporation.

DATES: Comments should be received on or before October 18, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*);
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number 4–607 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 4–607. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Wesley R. Bricker, Professional Accounting Fellow, or Vassilios Karapanos, Associate Chief Accountant, Office of the Chief Accountant at (202) 551–5300, or Tamara Brightwell, Senior Special Counsel, Division of Corporation Finance, at (202) 551–3500, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

I. Introduction

On February 24, 2010, the Commission issued a Statement in Support of Convergence and Global Accounting Standards (the "Statement"), reiterating its belief "that a single set of high-quality globally accepted accounting standards will benefit U.S. investors and that this goal is consistent with our mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation." [1] In this Statement, the Commission directed its staff to develop and execute a work plan ("Work Plan"), the purpose of which is to consider specific areas and factors before potentially transitioning our current financial reporting system for U.S. issuers to a system incorporating IFRS.[2]

The Work Plan identifies a number of topics for further study, including the three topics described below that are the subject of this solicitation for comment.

[1] Release Nos. 33–9109; 34–61578 (Feb. 24, 2010) [75 FR 9494] (Mar. 2, 2010).

[2] Available at: *http://www.sec.gov/spotlight/globalaccountingstandards/globalaccountingstandards.pdf*.

II. Investors' Current Knowledge of IFRS and Preparedness for Incorporation of IFRS [3]

A. Background

The consideration of incorporating IFRS into the financial reporting system for U.S. issuers requires, among other things, consideration of the impact on investors. This consideration requires an assessment of investor understanding and education regarding IFRS, because the main benefits to investors of a single set of high-quality globally accepted accounting standards would be realized only if investors understand and have confidence in the basis for the reported results.

IFRS currently differs from U.S. GAAP in a number of areas. Consequently, incorporation of IFRS into the financial reporting system for U.S. issuers may require significant investor education regarding IFRS. However, U.S. investors already may possess some understanding of IFRS due to global industry focus, cross-border investment decisions, and investments in foreign private issuers. Moreover, through the convergence process undertaken by the Financial Accounting Standards Board ("FASB") and the International Accounting Standards Board ("IASB"), the differences between the two sets of standards should become fewer and narrower.

B. Request for Comment

• To what extent and in what ways is the set of accounting standards (such as U.S. GAAP or IFRS) used by a company in its financial reporting significant to an investor's decision to invest in that company?

• To what extent are investors aware of the potential impact of incorporation of IFRS into the financial reporting system for U.S. issuers that they invest in or follow, compared with current U.S. GAAP? How significant of a change would the use of IFRS as compared to current U.S. GAAP be for investors?

• To what extent and in what ways would any of the current differences between U.S. GAAP and IFRS affect an investor's use of information reported in the financial statements? How would completion of the convergence projects being jointly undertaken by the FASB and the IASB affect an investor's use of those financial statements?

• How do investors develop and maintain an understanding of the impact of accounting standards, whether IFRS or U.S. GAAP, on the companies that they currently, or may in the future, invest in? How confident are investors in their understanding of IFRS? To what extent and in what ways would that change if IFRS were incorporated into the financial reporting system for U.S. issuers?

• How much time do investors currently devote to understanding or maintaining an understanding of accounting standards? To what extent would the time increase or decrease if IFRS were incorporated into the financial reporting system for U.S. issuers?

• If IFRS were to be incorporated into the financial reporting system for U.S. issuers, to what extent would an investor (or an investor's organization) have adequate resources to develop an understanding of IFRS, such as knowledgeable professionals, training materials, and access to standards?

• To what extent and in what ways do investors think incorporation of IFRS would affect comparability among different issuers' financial statements? Which standards or treatments in IFRS that are elective are most important? To what extent do reporting format and disclosures affect any lack of comparability?

• To what extent and in what ways would an investor's investment decision-making processes change if a U.S. issuer's financial statements were prepared using IFRS? Would investors need additional or different information to perform their analysis and, if so, what?

• To what extent and in what ways would an investor's investment decision-making processes change if U.S. issuers were given a choice to elect to prepare their financial statements using either U.S. GAAP or IFRS? Would an investor have greater or lesser confidence in a company's financial reporting if a U.S. issuer were to elect to prepare its financial statements in accordance with IFRS rather than U.S. GAAP?

• To what extent would use of IFRS by a U.S. issuer influence an investor to invest in that issuer? Not to invest? To hold? To sell?

• Do the answers to the questions above change depending on the nature of the investor (for example, if the investor is a retail investor, mutual-fund investor, institutional investor, or asset or portfolio manager) or the class of investments (debt, equity or convertible securities)?

[3] *See* the Work Plan, 75 FR at 9507.

III. Investors' Education Processes on Changes in Accounting Standards and Timeliness of Such Education

A. Background

Incorporation of IFRS into the financial reporting system for U.S. issuers may affect investors' education processes on changes in accounting standards and the timeliness of such education. As part of the Work Plan, the staff is considering how U.S. investors currently become educated about changes to accounting standards, in order to better assess the extent of investor educational effort necessary to effectively incorporate IFRS into the financial reporting system for U.S. issuers.

B. Request for Comment

- In what ways do investors educate themselves about accounting standards and changes to accounting standards? For example, do investors review accounting standard setters' project activities and related board materials? Observe meetings? Review meeting summaries? Review other observers' commentaries?
- At what point do investors educate themselves about standard-setting activities? Is it during the standard-setting process? Is it after completion of the standard-setting process? Would the timing of investors' education processes change if accounting standards for U.S. issuers were primarily developed by an organization other than the FASB?
- To what extent and in what ways do investors participate in the standard-setting process when the FASB and IASB set standards? Do they monitor standard-setting deliberations? Do they prepare response letters to requests for comment? Do they participate in the standard setters' working groups and roundtables?
- To what extent does the timing of an investor's education about a possible outcome of the accounting standard-setting process affect investment decisions? Do investors consider possible changes in accounting standards when analyzing an issuer's reported financial information, even before any such change in accounting is required to be adopted?
- Are there ways to improve the representation and communication of investors' perspectives in connection with accounting standard setting?
- To what extent do investors believe more education or communication about accounting standards or accounting standard-setting is needed? If more education or communication is needed, how should the education or communication be delivered? By whom?

IV. Extent of, Logistics for, and Estimated Time Necessary To Undertake Any Necessary Changes

A. Background

Incorporating IFRS into the financial reporting system for U.S. issuers could impact the extent of, logistics for, and estimated time necessary to undertake changes to improve investor understanding of IFRS and the related education process to ensure investors have a sufficient understanding of IFRS prior to potential incorporation.

B. Request for Comment

- How much time, if any, do investors need to improve their understanding of IFRS and related education processes so they have a sufficient understanding of IFRS prior to any incorporation?
- What mechanisms would aid investors in improving their understanding of IFRS? Who should provide those mechanisms?

Persons submitting comments on any of these questions are invited to consider and comment on whether the manner in which IFRS incorporation is implemented would affect the responses to the questions above.

All interested parties are invited to submit their views, in writing, on these questions.

Dated: August 12, 2010.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–20357 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9134; 34–62700; File No. 4–608]

Notice of Solicitation of Public Comment on Consideration of Incorporating IFRS Into the Financial Reporting System for U.S. Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Request for comment.

SUMMARY: The Securities and Exchange Commission is requesting public comment on behalf of the staff on three topics related to its ongoing consideration of incorporating International Financial Reporting Standards ("IFRS") into the financial reporting system for U.S. issuers. These three topics, derived from the staff's Work Plan on considering the incorporation of IFRS into the financial reporting system for U.S. issuers, involve the impact of such incorporation on: Issuers' compliance with contractual arrangements that require the use of U.S. Generally Accepted Accounting Principles ("U.S. GAAP"); Issuers' compliance with corporate governance requirements; and the application of certain legal standards tied to amounts determined for financial reporting purposes.

DATES: Comments should be received on or before October 18, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 4–608 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 4–608. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Tamara Brightwell, Senior Special Counsel, Larry Hamermesh, Attorney-Fellow, or Jennifer Zepralka, Senior Special Counsel, Division of Corporation Finance, at (202) 551–3500, or Jeffrey S. Cohan, Senior Special Counsel, Office of the Chief Accountant, at (202) 551–5300, 100 F Street, NE., Washington, DC 20549.

I. Introduction

On February 24, 2010, the Commission issued a Statement in Support of Convergence and Global Accounting Standards (the "Statement"), reiterating its belief "that a single set of high-quality globally accepted accounting standards will benefit U.S. investors and that this goal is consistent with our mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation." [1] In this Statement, the Commission directed the Staff to develop and execute a work plan ("Work Plan"), the purpose of which is to consider specific areas and factors before potentially transitioning our current financial reporting system for U.S. issuers to a system incorporating IFRS.[2]

The Work Plan identifies a number of topics for further study, including the three topics that are the subject of this solicitation for comment.

II. Contractual Arrangements [3]

A. Background

Companies' contracts often, either explicitly or implicitly, require reporting under U.S. GAAP or include metrics that are based off of current U.S. GAAP reporting. For example, companies may have issued debt instruments which include financial covenants based on U.S. GAAP or require periodic reporting of financial statements prepared in accordance with U.S. GAAP. Similarly, lease contracts and employee compensation plans may be based on metrics computed using U.S. GAAP financial information. Merger agreements may contain earn-out provisions that are to be calculated using U.S. GAAP.

Commentators on the Commission's 2008 proposal regarding IFRS [4] indicated that a move to IFRS for U.S. issuers may require contract renegotiation or the preparation of two sets of financial statements, depending on how IFRS is incorporated in the U.S. capital markets. In addition, performance under existing agreements could be affected if the changes in accounting standards result in financial reporting changes.

B. Request for Comment

- To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers be likely to affect the application, interpretation, or enforcement of contractual commercial arrangements such as financing agreements, trust indentures, merger agreements, executive employment agreements, stock incentive plans, leases, franchise agreements, royalty agreements, and preferred stock designations?
- What types of contractual commercial arrangements aside from those specifically identified in the previous question would likely be affected by the incorporation of IFRS into the financial reporting system for U.S. issuers, and in what ways?
- With respect to existing contractual commercial arrangements, would the incorporation of IFRS into the financial reporting system for U.S. issuers be treated differently as compared to how a change in an existing financial reporting standard under U.S. GAAP would be treated today? If so, how?
- To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would affect the application, interpretation, or enforcement of contractual commercial arrangements, how would parties to such arrangements most likely address such effects (*e.g.,* by modifying the contract, or adopting multiple accounting systems)?
- To what extent would any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of contractual commercial arrangements likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the effects? Are there any other means by which such effects can be mitigated or avoided?

III. Corporate Governance; Stock Exchange Listing Requirements [5]

A. Background

Incorporation of IFRS into the financial reporting system for U.S. issuers may affect an issuer's compliance with corporate governance requirements. For example, in 2003, as required by the Sarbanes-Oxley Act, the Commission adopted rules that require a registrant to disclose whether it has at least one "audit committee financial expert," as defined, serving on its audit committee and, if so, the name of the expert and whether the expert is independent of management. Those rules also indicate the education and experience through which those attributes must have been acquired.[6] Listing rules for U.S. securities exchanges also have requirements regarding the competence of audit committee members in accounting and financial reporting.[7] In addition, U.S. securities exchanges have certain quantitative listing standards that could be affected by changes in financial reporting.[8] Accordingly, incorporation of IFRS into the financial reporting system may result in challenges for U.S. issuers in identifying audit committee financial experts and in satisfying corporate governance and related quantitative stock exchange listing requirements, as well as, more broadly, compliance with other aspects of corporate governance.

B. Request for Comment

- To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect compliance with corporate governance and related disclosure requirements applicable to U.S. issuers, such as stock exchange listing requirements relating to the composition and function of audit committees of the boards of directors and disclosure requirements regarding audit committee financial experts?
- We understand that experienced professionals, including audit committee members, would likely need to enhance their knowledge of IFRS and develop further expertise, and we believe it would be important for audit committee members to do so in light of their responsibility for oversight of the preparation and audit of financial statements that are presented to U.S. investors. To what extent would current members of boards of directors likely have the education or experience needed to meet the requirements of the definition of "audit committee financial expert" [9] or the stock exchange listing requirements related to accounting or financial management expertise [10] following the incorporation of IFRS into the financial reporting system for U.S. issuers? Would there be adverse effects

[1] Release Nos. 33–9109; 34–61578 (Feb. 24, 2010) [75 FR 9494] (Mar. 2, 2010).

[2] Available at: *http://www.sec.gov/spotlight/globalaccountingstandards/globalaccountingstandards.pdf.*

[3] *See* the Work Plan, 75 FR at 9511.

[4] *See Roadmap for the Potential Use of Financial Statements Prepared in Accordance with International Financial Reporting Standards by U.S. Issuers,* Release No. 33–8982; 34–58960 (Nov. 14, 2008) [73 FR 70816] (Nov. 21, 2008).

[5] *See* the Work Plan, 75 FR at 9511.

[6] Item 407(d)(5) of Regulation S–K.

[7] *E.g.,* NYSE Listed Company Manual § 303A.07; Nasdaq Listing Rule 5605(c)(2).

[8] *E.g.,* NYSE Listed Company Manual § 102.00; Nasdaq Listing Rule 5450.

[9] Item 407(d)(5) of Regulation S–K.

[10] *E.g.,* NYSE Listed Company Manual § 303A.07; Nasdaq Listing Rule 5605(c)(2).

if an issuer were required to disclose that it does not have any audit committee financial experts while its audit committee members are in the process of obtaining the necessary expertise?

• To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would adversely affect board members' ability to meet the requirements or result in disclosure that the issuer does not have an audit committee financial expert, how would issuers and individual directors most likely address such effects (*e.g.,* by additional training)? To what extent and in what ways would such effects be likely to differ from similar effects in jurisdictions that have adopted, or are in the process of adopting, IFRS?

• To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect an issuer's ability to comply with quantitative securities exchange listing standards?

• To what extent would any potential adverse effects of incorporating IFRS into the U.S. financial reporting system on issuers' compliance with corporate governance and related disclosure requirements likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the adverse effects? Are there any other means by which such effects can be mitigated or avoided?

• To what extent would any potential adverse effects of incorporating IFRS into the U.S. financial reporting system on issuers' compliance with quantitative stock exchange listing standards likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the adverse effects? Are there any other means by which such effects can be mitigated or avoided?

• Are there any corporate governance and related disclosure requirements other than those identified above that would be affected by incorporating IFRS into the financial reporting system for U.S. issuers?

IV. Statutory Distribution Restrictions and Other Legal Standards Tied to Financial Reporting Standards [11]

A. Background

Certain legal standards in State laws may be tied to amounts determined for financial reporting purposes. For example, while the amount, timing, and manner of the payment of dividend distributions and repurchases of stock are typically determined by companies' boards of directors, the actual amounts available to distribute or to repurchase may be restricted by State statute. Some jurisdictions provide in this regard that dividends may be paid only from retained earnings or may be paid from current earnings despite an accumulated deficit.

To the extent that jurisdictions base legal standards on amounts determined for financial reporting purposes, incorporation of IFRS into the financial reporting system for U.S. issuers could affect a company's ability to undertake certain actions, such as declaring dividends or repurchasing stock, which would, in turn, affect investors' expectations. In addition, to the extent that legal standards do not change based on changes in financial reporting requirements, companies could need to maintain two sets of records.

B. Request for Comment

• To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect the application of limits in State statutes on the ability of issuers to make distributions to holders of equity securities, either through dividends or similar distributions in respect of those securities, or to repurchase such securities? [12]

• Are there any particular distribution statutes from any particular jurisdictions the application of which are especially likely to be affected by incorporating IFRS into the financial reporting system for U.S. issuers? [13] Which statutes, and why?

• To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would affect the application of statutes governing distributions to equity security holders, how would the jurisdictions affected (or issuers in such jurisdictions) most likely address such effects?

• To what extent would any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of statutes governing distributions to equity security holders be avoided or minimized by State law permitting the board of directors to rely on reasonable valuation methods, rather than on financial statements, in determining whether a distribution is permissible (*e.g.,* when transitioning to IFRS, if the value of an asset is determined to be lower using IFRS than it would be using the current standard in U.S. GAAP, would the board be able to make a determination that the value of the asset is higher than as calculated under IFRS)? [14]

• To what extent would any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of statutory limits on distributions to equity security holders likely be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the effects? Are there any other means by which such effects can be mitigated or avoided?

• To what extent and in what ways would incorporating IFRS into the financial reporting system for U.S. issuers likely affect the application of State statutes requiring a shareholder vote for a sale of "all or substantially all" of the issuer's property or assets? [15] For example, would the determination of whether such a vote is required change

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[11] Work Plan, 75 FR at 9508–9.

[12] *E.g.,* Del. Code Ann., tit. 8, § 154 (defining surplus); Model Bus. Corp. Act § 6.40 (prohibiting distributions to shareholders if total assets would be less than total liabilities).

[13] *E.g.,* Cal. Corp. Code § 500(c) ("The amount of any distribution payable in property shall, for the purposes of this chapter, be determined on the basis of the value at which the property is carried on the corporation's financial statements in accordance with generally accepted accounting principles."); Ohio Rev. Code § 1701.33(A) (including, in the formula for determining the permissible amount of a distribution, "[t]he reduction in surplus that results from the immediate recognition of the transition obligation under statement of financial accounting standards no. 106 (SFAS no. 106), issued by the financial accounting standards board").

[14] *See Klang* v. *Smith's Food & Drug Ctrs.,* 702 A.2d 150, 152 (Del. 1997) ("Regardless of what a balance sheet that has not been updated may show, an actual, though unrealized, appreciation reflects economic value that the corporation may borrow against or that creditors may claim or levy on. Allowing corporations to revalue assets and liabilities to reflect current realities complies with the statute [specifying permissible sources for distributions to stockholders] and serves well the policies behind this statute."); Model Bus. Corp. Act § 6.40(d) (permitting the board of directors to determine whether a distribution is permissible based "either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.").

[15] *E.g.,* Del. Code Ann., tit. 8, § 271(a); Model Bus. Corp. Act § 12.02(a).

as a result of a change in accounting standards?

• Are there any particular asset sale statutes from any particular jurisdictions the application of which is especially likely to be affected by incorporating IFRS into the financial reporting system for U.S. issuers? Which statutes, and why?

• To the extent that incorporating IFRS into the financial reporting system for U.S. issuers would affect the application of statutes governing sales of assets, how would the jurisdictions affected (or issuers in such jurisdictions) most likely address such effects?

• To what extent would any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of statutes governing sales of assets be avoided or minimized by State law permitting the board of directors to rely on reasonable valuation methods, rather than financial statements, in determining whether a shareholder vote is required to approve a sale of assets? [16]

• To what extent are any potential effects of incorporating IFRS into the financial reporting system for U.S. issuers on the application of statutes governing sales of assets likely to be mitigated or otherwise affected by providing for a transition or phase-in period for compliance with the incorporation of IFRS into the financial reporting system for U.S. issuers? What length of a transition or phase-in period would be necessary to reasonably mitigate the effects? Are there any other means by which such effects can be mitigated or avoided?

• Are there any other State statutes the application of which is likely to be affected by incorporating IFRS into the financial reporting system for U.S. issuers? [17] To what extent and in what ways, and why?

Persons submitting comments on any of these questions are invited to consider and comment on whether the manner in which IFRS incorporation is implemented would affect the responses to the questions above.

All interested parties are invited to submit their views, in writing, on these questions.

Dated: August 12, 2010.
By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–20358 Filed 8–17–10; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection to the OMB Desk Officer and SSA Reports Clearance Officer to the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov*.

SSA has submitted the information collection listed below to OMB for clearance. Your comments on the information collection would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 17, 2010. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

Social Security Benefits Application—20 CFR 404.310–404.311, 404.315–404.322, 404.330–404.333, 404.601–404.603, and 404.1501–404.1512—0960–0618. This collection comprises the various application modalities for retirement, survivors, and disability benefits. These modalities include paper forms (SSA Forms SSA–1, SSA–2, and SSA–16), Modernized Claims System (MCS) screens for in-person field office interview applications, as well as the Internet-based iClaim and iAppointment applications. SSA will use the information to determine if applicants are eligible for the above-mentioned Social Security benefits and the amount of the benefits. This information collection request is for additions and revisions to the current information collection modalities. The respondents are applicants for retirement, survivors, and disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Paper Forms/Accompanying MCS Screens				
Form SSA–1:				
MCS	172,200	1	11	31,570
MCS/Signature Proxy	1,250,800	1	10	208,467
Paper	20,000	1	11	3,667
Medicare-only MCS	299,000	1	7	34,883
Medicare-only Paper	1,000	1	7	117
Totals	1,743,000	.....	.....	278,704
Form SSA–2:				

[16] *See* Official Comment to Model Bus. Corp. Act § 12.02(a) (stating that a board of directors may base a determination that a retained business represents at least 25% of total assets or 25% of total income "either on accounting principles and practices that are reasonable in the circumstances or (in applying the asset test) on a fair valuation or other method that is reasonable in the circumstances.").

[17] *E.g.,* Del. Code Ann., tit. 8, § 503 (requiring, for purposes of determining corporate franchise tax, that "[i]nterests in entities which are consolidated with the reporting company shall be included within 'total assets' and 'total gross assets' at a value determined in accordance with generally accepted accounting principles.").

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
MCS	36,860	1	15	9,215
MCS/Signature Proxy	331,740	1	14	77,406
Paper	3,800	1	15	950
Totals	372,400			87,571
Form SSA–16:				
MCS	218,657	1	20	72,886
MCS/Signature Proxy	1,967,913	1	19	623,172
Paper	24,161	1	20	8,054
Totals	2,210,731			704,112
Internet Applications				
iClaim:				
iClaim 3rd Party	28,118	1	15	7,030
iClaim Applicant after 3rd Party Completion	28,118	1	5	2,343
First Party iClaim	541,851	1	15	135,463
Medicare-only iClaim	200,000	1	10	33,333
Totals	798,087			178,169
iAppointment:				
iAppointment	200,000	1	10	33,333

Aggregate Public Reporting Burden: 1,281,889 hours.

Dated: August 13, 2010.

Liz Davidson,

Center Director, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2010–20382 Filed 8–17–10; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2010–0035]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Department of the Treasury/Internal Revenue Service (IRS))—Match Number 1310

AGENCY: Social Security Administration (SSA)

ACTION: Notice of a renewal of an existing computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with IRS.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Jonathan R. Cantor,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Department of the Treasury/Internal Revenue Service (IRS)

A. Participating Agencies

SSA and IRS.

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the terms under which IRS will disclose to us certain return information for the purpose of establishing the correct amount of Medicare Part B and Medicare prescription drug coverage subsidy adjustments under sections 1839(i) and 1860D–13(a)(7) of the Social Security Act (Act), enacted by section 811 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and section 3308 of the Affordable Care Act.

C. Authority for Conducting the Matching Program

The legal authority for this agreement is section 6103(1)(20) of the Internal Revenue Code, which authorizes IRS to disclose specified return information to SSA with respect to taxpayers whose Part B and prescription drug coverage insurance premium(s) may (according to IRS records) be subject to premium subsidy adjustment pursuant to sections 1839(i) and 1860D–13(a)(7) of the Act for the purpose of establishing the amount of any such adjustment. The return information IRS will disclose includes adjusted gross income and specified tax-exempt income, collectively referred to in this agreement as modified adjusted gross income (MAGI).

In addition, sections 1839(i) and 1860D–13(a)(7) of the Act require the Commissioner of SSA to determine the amount of a beneficiary's premium subsidy adjustment if the MAGI is above the applicable threshold as established in section 1839(i) of the Act. Pursuant to sections 1839(i) and 1860D–13(a)(7) of the Act (42 U.S.C. 1395r(i) and 1395W–113), SSA will determine whether a Medicare beneficiary would pay a larger percentage of premiums than would a beneficiary with MAGI below the applicable threshold.

D. Categories of Records and Persons Covered by the Matching Program

SSA will provide IRS with identifying information with respect to enrollees from the Master Beneficiary Record system of records, SSA/ORSIS 60–0090, originally published at 60 FR 2144 (January 6, 1995) and revised at 71 FR 1826 (January 11, 2006). SSA will maintain the MAGI data provided by IRS in the Medicare Database system of records, SSA/ORSIS 60–0321, originally published at 69 FR 77816 (December 28, 2004), and revised at 71 FR 42159 (July 25, 2006).

IRS will extract MAGI data from the Return Transaction File, which is part of the Customer Account Data Engine (CADE) Individual Master File, Treasury/IRS 24.030, published at 73 FR 13304 (March 12, 2008).

E. Inclusive Dates of the Matching Program

The effective date of this matching program is October 1, 2010, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 2010–20333 Filed 8–17–10; 8:45 am]

BILLING CODE 4191–02–P

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Approved Projects.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES.**

DATES: June 1, 2010, through June 30, 2010.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; e-mail: *rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238–0423, ext. 304; fax: (717) 238–2436; e-mail: *srichardson@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f):

1. Chesapeake Appalachia, LLC; Pad ID: Duane, ABR–20100601, Leroy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 2, 2010.

2. Chesapeake Appalachia, LLC; Pad ID: Finnerty, ABR–20100602, West Burlington Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 2, 2010.

3. Cabot Oil and Gas Corporation, Pad ID: OakleyJ P1, ABR–20100603, Springville Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: June 2, 2010.

4. XTO Energy Incorporated, Pad ID: Brown 8519H, ABR–20100604, Moreland Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 2, 2010.

5. Cabot Oil & Gas Corporation, Pad ID: Post P1, ABR–20100605, Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: June 2, 2010.

6. Chesapeake Appalachia, LLC; Pad ID: Allen, ABR–20100606, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 2, 2010.

7. Seneca Resources Corporation, Pad ID: Wivell Pad I, ABR–20100607, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 2, 2010.

8. Cabot Oil & Gas Corporation, Pad ID: Lauffer P1, ABR–20100608, Springville Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: June 2, 2010.

9. Cabot Oil & Gas Corporation, Pad ID: StockholmK P3, ABR–20100609, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: June 2, 2010.

10. Chesapeake Appalachia, LLC; Pad ID: Rylee, ABR–20100610, Auburn Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 3, 2010.

11. EXCO Resources (PA), Inc.; Pad ID: Taylor (Pad 33), ABR–20100611, Burnside Township, Centre County, Pa.; Consumptive Use of up to 8.000 mgd; Approval Date: June 3, 2010.

12. Cabot Oil & Gas Corporation, Pad ID: HullR P2, ABR–20100612, Springville Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: June 4, 2010.

13. Seneca Resources Corporation, Pad ID: DCNR Tract 007 1V, ABR–20100613, Shippen Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 4, 2010.

14. East Resources, Inc.; Pad ID: Barbine 292, ABR–20100614, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 4, 2010.

15. East Resources, Inc.; Pad ID: Mitchell 456, ABR–20100615, Jackson Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 4, 2010.

16. Chief Oil & Gas, LLC; Pad ID: Fulmer Drilling Pad #1, ABR–20100616, Penn Township, Lycoming County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 6, 2010.

17. Chesapeake Appalachia, LLC; Pad ID: Stalford, ABR–20100617, Wyalusing Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 7, 2010.

18. East Resources, Inc.; Pad ID: Erickson 423, ABR–20100618, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 7, 2010.

19. Range Resources—Appalachia, LLC; Pad ID: Mohawk Lodge Unit, ABR–20100619, Gallagher Township, Clinton County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: June 7, 2010.

20. Seneca Resources Corporation, Pad ID: Valldes Pad C, ABR–20100620, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 7, 2010.

21. Seneca Resources Corporation, Pad ID: Warren Pad B, ABR–20100621, Richmond Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 7, 2010.

22. East Resources, Inc.; Pad ID: Hege 426, ABR–20100622, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 7, 2010.

23. East Resources, Inc.; Pad ID: Allen 620, ABR–20100623, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 7, 2010.

24. Norse Energy Corporation USA, Pad ID: Krawiec #2, ABR–20100624, Smyrna Township, Chenango County, N.Y.; Consumptive Use of up to 0.100 mgd; Approval Date: June 7, 2010.

25. Norse Energy Corporation USA, Pad ID: Mulligan #1, ABR–20100625, Lebanon Township, Madison County, N.Y.; Consumptive Use of up to 0.100 mgd; Approval Date: June 7, 2010.

26. East Resources, Inc.; Pad ID: Hazelton 424, ABR–20100626, Shippen Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 8, 2010.

27. Norse Energy Corporation USA, Pad ID: Byler, R. #1, ABR–20100627, Lebanon Township, Madison County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: June 9, 2010.

28. Chief Oil & Gas, LLC; Pad ID: Shannon Land Mining Drilling Pad #1, ABR–20100628, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 9, 2010.

29. Talisman Energy USA, Inc.; Pad ID: Roy 03 046, ABR–20100629, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 10, 2010.

30. Talisman Energy USA, Inc.; Pad ID: Roy 03 039, ABR–20100630, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 10, 2010.

31. Anadarko E&P Company, LP; Pad ID: COP Tract 728 Pad A, ABR–20100631, Watson Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 10, 2010, including a partial waiver of 18 CFR 806.15.

32. EXCO Resources (PA), Inc.; Pad ID: Livergood (Pad 28), ABR–20100632, Burnside Township, Centre County, Pa.; Consumptive Use of up to 8.000 mgd; Approval Date: June 11, 2010.

33. Ultra Resources, Inc.; Pad ID: Pierson 810, ABR–20100633, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: June 11, 2010.

34. Chesapeake Appalachia, LLC; Pad ID: Shaw, ABR–20100634, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 11, 2010.

35. Anadarko E&P Company, LP; Pad ID: David C Duncan Pad A, ABR–20100635, Cascade Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 11, 2010.

36. Anadarko E&P Company, LP; Pad ID: COP Tract 289 C, ABR–20100636, McHenry Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 11, 2010, including a partial waiver of 18 CFR 806.15.

37. Chesapeake Appalachia, LLC; Pad ID: Cannella, ABR–20100637, Auburn Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 11, 2010.

38. Chesapeake Appalachia, LLC; Pad ID: Towner, ABR–20100638, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 14, 2010.

39. Chesapeake Appalachia, LLC; Pad ID: Bonin, ABR–20100639, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 14, 2010.

40. Chesapeake Appalachia, LLC; Pad ID: BDF, ABR–20100640, Smithfield Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 14, 2010.

41. XTO Energy Incorporated, Pad ID: Moser 8521H, ABR–20100641, Franklin Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 14, 2010.

42. Chesapeake Appalachia, LLC; Pad ID: Them, ABR–20100642, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 14, 2010.

43. Chesapeake Appalachia, LLC; Pad ID: Serengeti, ABR–20100643, Troy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 14, 2010.

44. EOG Resources, Inc.; Pad ID: PHC Pad U, ABR–20100644, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: June 14, 2010.

45. EOG Resources, Inc.;, Pad ID: COP Pad B, ABR–20100645, Lawrence Township, Clearfield County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: June 14, 2010.

46. Range Resources—Appalachia, LLC; Pad ID: Shohocken Hunt Club Unit #1H–#6H, ABR–20100646, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: June 14, 2010.

47. Talisman Energy USA, Inc.; Pad ID: Harnish 01 032, ABR–20100647, Canton Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 14, 2010.

48. Range Resources—Appalachia, LLC; Pad ID: Ogontz Fishing Club Unit #12H–#17H, ABR–20100648, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: June 14, 2010.

49. Seneca Resources Corporation, Pad ID: Murray Pad A, ABR–20100317.1, Richmond Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 14, 2010.

50. Talisman Energy USA, Inc.; Pad ID: Wray 03 058, ABR–20100649, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 15, 2010.

51. Talisman Energy USA, Inc.; Pad ID: Roy 03 040, ABR–20100650, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 15, 2010.

52. East Resources, Inc.; Pad ID: Gilman 812, ABR–20100651, Chatham Township, Tioga County, Pa.; Consumptive Use of up to 1.000 mgd; Approval Date: June 16, 2010.

53. East Resources, Inc.; Pad ID: Staples 804, ABR–20100652, Clymer Township, Tioga County, Pa.; Consumptive Use of up to 1.000 mgd; Approval Date: June 16, 2010.

54. Southwestern Energy Production Company, Pad ID: Robinson, ABR–20100653, Stevens Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: June 16, 2010.

55. Talisman Energy USA, Inc.; Pad ID: Schucker 03 006, ABR–20100654,

Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 16, 2010.

56. EOG Resources, Inc.; Pad ID: MATTOCKS 1V, ABR–20100655, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: June 16, 2010.

57. Seneca Resources Corporation, Pad ID: DCNR Tract 001 1V, ABR–20100656, Sweden Township, Potter County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 16, 2010.

58. EOG Resources, Inc.; Pad ID: HAVEN 1H, ABR–20100657, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 1.999 mgd; Approval Date: June 16, 2010.

59. EOG Resources, Inc.; Pad ID: HAVEN 3H, ABR–20100658, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 1.999 mgd; Approval Date: June 16, 2010.

60. East Resources, Inc.; Pad ID: Shelman 291, ABR–20100659, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 17, 2010.

61. Chesapeake Appalachia, LLC; Pad ID: Oshea, ABR–20100660, Windham Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 17, 2010.

62. Chesapeake Appalachia, LLC; Pad ID: LRTC, ABR–20100661, Morris Township, Tioga County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 17, 2010.

63. Chesapeake Appalachia, LLC; Pad ID: Linski, ABR–20100662, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 17, 2010.

64. Cabot Oil and Gas Corporation, Pad ID: StockholmK P1, ABR–20100663, Dimock Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: June 18, 2010.

65. XTO Energy Incorporated, Pad ID: Marquardt 8534H, ABR–20100664, Penn Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 18, 2010.

66. Talisman Energy (USA), Inc.; Pad ID: Boor 03 010, ABR–20100665, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 18, 2010.

67. Norse Energy Corporation, Pad ID: Aarismaa, J. #1, ABR–20100666, Preston Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: June 21, 2010.

68. EnCana Oil & Gas (USA), Inc.; Pad ID: Salansky 1H, ABR–20100667, Lake Township, Luzerne County, Pa.; Consumptive Use of up to 1.200 mgd; Approval Date: June 21, 2010.

69. EXCO Resources (PA), Inc.; Pad ID: Confer (Pad 31), ABR–20100668, Burnside Township, Centre County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 21, 2010.

70. EXCO Resources (PA), Inc.; Pad ID: Confer (Pad 32), ABR–20100669, Burnside Township, Centre County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 21, 2010.

71. East Resources, Inc.; Pad ID: Doan 893, ABR–20100670, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 21, 2010.

72. Chesapeake Appalachia, LLC; Pad ID: Alderfer NEW, ABR–20100671, Litchfield Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 21, 2010.

73. Chesapeake Appalachia, LLC; Pad ID: Steinbright, ABR–20100672, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 22, 2010.

74. East Resources, Inc.; Pad ID: Broadbent 466, ABR–20100673, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 22, 2010.

75. Chief Oil & Gas, LLC; Pad ID: Castrogiovanni Drilling Pad #1, ABR–20100674, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 22, 2010.

76. Chief Oil & Gas, LLC; Pad ID: Baumunk Drilling Pad #1, ABR–20100675, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 22, 2010.

77. Chief Oil & Gas, LLC; Pad ID: McCarty Drilling Pad #1, ABR–20100676, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 22, 2010.

78. Triana Energy, LLC; Pad ID: Triana-Young Pad A, ABR–20100677, Hector Township, Potter County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 22, 2010.

79. Carrizo Marcellus, LLC; Pad ID: Selma Stang 2H, ABR–20100678, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 1.400 mgd; Approval Date: June 22, 2010.

80. Carrizo Marcellus, LLC; Pad ID: Sickler 5H, ABR–20100679, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 1.400 mgd; Approval Date: June 22, 2010.

81. Chesapeake Appalachia, LLC; Pad ID: Cranrun, ABR–20100680, Leroy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 22, 2010.

82. Chief Oil & Gas, LLC; Pad ID: Poor Shot East Drilling Pad #2, ABR–20100681, Anthony Township, Lycoming County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 22, 2010.

83. East Resources, Inc.; Pad ID: Zeafla 747, ABR–20100682, Jackson Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 22, 2010.

84. East Resources, Inc.; Pad ID: Camp Never Too Late 521, ABR–20100683, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 22, 2010.

85. Anadarko E&P Company, LP; Pad ID: Larry's Creek F&G, ABR–20100684, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 22, 2010.

86. East Resources, Inc.; Pad ID: Cruttenden 846, ABR–20100685, Middlebury Township, Tioga County, Pa.; Consumptive use of up to 4.000 mgd; Approval Date: June 23, 2010.

87. Chesapeake Appalachia, LLC; Pad ID: Black Creek, ABR–20100686, Forks Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 23, 2010.

88. Chesapeake Appalachia, LLC; Pad ID: Beebe, ABR–20100687, Asylum Township, Bradford County, Pa.; Consumptive use of up to 7.500 mgd; Approval Date: June 23, 2010.

89. East Resources, Inc.; Pad ID: Hauswirth 516, ABR–20100688, Richmond Township, Tioga County, Pa.; Consumptive use of up to 4.000 mgd; Approval Date: June 23, 2010.

90. Chesapeake Appalachia, LLC; Pad ID: Akita NEW, ABR–20100689, Smithfield Township, Bradford County, Pa.; Consumptive use of up to 7.500 mgd; Approval Date: June 23, 2010.

91. EOG Resources Inc.; Pad ID: PHC Pad R, ABR–20100690, Lawrence Township, Clearfield County, Pa.; Consumptive use of up to 4.999 mgd; Approval Date: June 23, 2010.

92. Ultra Resources, Inc.; Pad ID: Martin 806, ABR–20100691, Gaines Township, Tioga County, Pa.; Consumptive use of up to 4.990 mgd; Approval Date: June 23, 2010.

93. EOG Resources, Inc.; Pad ID: KINGSLEY 2H, ABR–20100692, Springfield Township, Bradford County, Pa.; Consumptive use of up to 4.999 mgd; Approval Date: June 23, 2010.

94. Talisman Energy USA Inc.; Pad ID: Morgan 01 073, ABR–20100693, Armenia Township, Bradford County, Pa.; Consumptive use of up to 6.000 mgd; Approval Date: June 24, 2010.

95. Anadarko E&P Company LP, Pad ID: COP Tr 344 Pad A, ABR–20100694, Noyes Township, Clinton County, Pa.; Consumptive use of up to 3.000 mgd; Approval Date: June 24, 2010, including a partial waiver of 18 CFR 806.15.

96. Anadarko E&P Company LP, Pad ID: COP Tr 342 A, ABR–20100695, Beech Creek Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 24, 2010, including a partial waiver of 18 CFR 806.15.

97. Talisman Energy USA Inc., Pad ID: Lyon 01 078, ABR–20100696, Troy Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 24, 2010.

98. Chief Oil & Gas, LLC; Pad ID: Signore Drilling Pad #1, ABR–20100697, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 24, 2010.

99. EOG Resources, Inc.; Pad ID: KINGSLEY 3H, ABR–20100698, Springfield Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: June 24, 2010.

100. Chief Oil & Gas, LLC; Pad ID: Frey Drilling Pad #1, ABR–20100699, Fox Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 25, 2010.

101. Talisman Energy USA, Inc.; Pad ID: McClure 03 053, ABR–201006100, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 25, 2010.

102. Talisman Energy USA, Inc.; Pad ID: White 03 025, ABR–201006101, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: June 25, 2010.

103. Chesapeake Appalachia, LLC; Pad ID: Hilltop NEW, ABR–201006102, Jessup Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 28, 2010.

104. Chesapeake Appalachia, LLC; Pad ID: Henderson, ABR–201006103, Fox Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 28, 2010.

105. Chesapeake Appalachia, LLC; Pad ID: Lillie NEW, ABR–201006104, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 28, 2010.

106. EQT Production Company, Pad ID: Phoenix F, ABR–201006105, Duncan Township, Tioga County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 28, 2010.

107. East Resources, Inc.; Pad ID: Palmer 809, ABR–201006106, Chatham Township, Tioga County, Pa.; Consumptive Use of up to 1.000 mgd; Approval Date: June 28, 2010.

108. Chesapeake Appalachia, LLC; Pad ID: Kipar NEW, ABR–201006107, Auburn Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 28, 2010.

109. Chesapeake Appalachia, LLC; Pad ID: Kriebel NEW, ABR–201006108, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 28, 2010.

110. Chief Oil & Gas, LLC; Pad ID: Longmore Drilling Pad #1, ABR–201006109, Monroe Township, Wyoming County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: June 28, 2010.

111. Chesapeake Appalachia, LLC; Pad ID: Curtin, ABR–201006110, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: June 29, 2010.

112. East Resources, Inc.; Pad ID: Anthony 564, ABR–201006111, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 29, 2010.

113. East Resources, Inc.; Pad ID: Costanzo 818, ABR–201006112, Chatham Township, Tioga County, Pa.; Consumptive Use of up to 1.000 mgd; Approval Date: June 29, 2010.

114. East Resources, Inc.; Pad ID: Yaggie 704, ABR–201006113, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: June 29, 2010.

115. EQT Production Company, Pad ID: Phoenix C, ABR–201006114, Duncan Township, Tioga County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: June 29, 2010.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: August 9, 2010.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2010–20419 Filed 8–17–10; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35398]

BDB Company—Acquisition Exemption—Consolidated Rail Corporation

BDB Company (BDB), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Consolidated Rail Corporation a parcel of land, formerly known as the Swanson Rail Yard, in Philadelphia, Pa.[1] The property is approximately 159.54 feet wide and 2,063 feet long and is located about 25 feet east of Interstate Highway 95 between Pattison Avenue and the Delaware River Port Authority right-of-way (Walt Whitman Bridge approach/Interstate Highway 76).[2] The purpose of the acquisition is to develop a common carrier truck-rail transfer facility[3] and associated rail common carrier service.

This transaction is related to two other transactions for which notices of exemption have been simultaneously filed: Docket No. FD 35399, *Swanson Rail Transfer, L.P.—Lease and Operation Exemption—BDB Company,* in which Swanson Rail Transfer, L.P. (SRT) seeks Board approval to acquire the same property by lease from affiliate BDB and to operate the property; and Docket No. FD 35400, *B. Robert DeMento, Jr., and Baggio Herman DeMento—Continuance in Control Exemption—BDB Company and Swanson Rail Transfer, L.P.,* in which the partners/owners of BDB and SRT, B. Robert DeMento, Jr., and Baggio Herman DeMento, seek Board approval to continue in control of BDB and SRT upon Board approval of this transaction and the transaction in FD 35399.

The transaction may not be consummated until September 1, 2010 (30 days after the notice of exemption was filed).

BDB certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than August 25, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35398, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John F. McHugh, 6 Water Street, New York, N.Y. 10004.

[1] BDB seeks Board approval now for the acquisition even though the transfer took place in April 2005.

[2] According to BDB, there are no mileposts on this property.

[3] BDB states that, to the extent the facility will handle waste products, it has already been fully licensed by the State of Pennsylvania.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 12, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–20438 Filed 8–17–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35400]

B. Robert DeMento, Jr., and Baggio Herman DeMento—Continuance in Control Exemption—BDB Company and Swanson Rail Transfer, L.P.

B. Robert DeMento, Jr., and Baggio Herman DeMento (DeMento Brothers), noncarrier partners, have filed a verified notice of exemption to continue in control of BDB Company (BDB) and Swanson Rail Transfer, L.P. (SRT), upon their becoming Class III rail carriers. The DeMento Brothers do not currently control any rail carriers.

This transaction may not be consummated until September 1, 2010 (30 days after the notice of exemption was filed).

This transaction is related to two other transactions for which notices of exemption have been simultaneously filed: Docket No. FD 35398, *BDB Company—Acquisition Exemption—Consolidated Rail Corporation,* in which BDB seeks Board approval to acquire from Consolidated Rail Corporation certain rail property in Philadelphia, Pa.; and Docket No. FD 35399, *Swanson Rail Transfer, L.P.—Lease and Operation Exemption—BDB Company,* in which SRT seeks Board approval to acquire that same property by lease from BDB and to operate the property.

The DeMento Brothers state that: (i) Because BDB will be a non-operating carrier and the railroads will not connect with each other, (ii) the transaction is not a part of a series of anticipated transactions that would connect any of these railroads with one another or any other railroad, and (iii) the transaction does not involve a Class I railroad. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than August 25, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35400, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John F. McHugh, 6 Water Street, New York, NY 10004.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 12, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–20543 Filed 8–17–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1066 (Sub-No. 2X)]

Central Illinois Railroad Company—Discontinuance of Service Exemption—in Cook County, IL

On July 29, 2010, Central Illinois Railroad Company (CIRY) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue service over approximately 5.9 miles of main line track and approximately 12.47 miles of sidetrack owned by BNSF Railway Company (BNSF).[1] The lines are referred to as the Lumber District and the Illinois Northern Line and are located in the vicinity of BNSF's Western Avenue Yard in Chicago, Cook County, IL.[2] The lines traverse U.S. Postal Service Zip Codes 60608 and 60616, and include no stations. The lease agreement between BNSF and CIRY was scheduled to expire in November 2010, but the parties recently reached an agreement whereby the lease would terminate at the close of business on August 9, 2010. CIRY states that, on August 10, 2010, BNSF would resume providing rail service on the lines.

According to CIRY, the lines do not contain any federally granted rights-of-way. Any documentation in CIRY's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 16, 2010.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).[3]

All filings in response to this notice must refer to Docket No. AB 1066 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001, and (2) Karl Morell, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005. Replies to the petition are due on or before September 7, 2010.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR

[1] CIRY was authorized to lease from BNSF and operate the lines in the year 2000. *See The Cent. Ill. R.R.—Lease and Operation Exemption—Lines of The Burlington N. and Santa Fe Ry. at Chicago, Cook County, Ill.,* FD 33960 (STB served Dec. 5, 2000).

[2] The Lumber District is located between a point 300 feet south of the point of the frog on BNSF's crossover to the main line of the Norfolk Southern Railway Company, which point is south of the wye track that enters the west end of BNSF's Western Avenue Yard, and the end of BNSF's ownership at Lumber Street approximately 500 feet east of Canal Street, including trackage that extends north from Cermak Road parallel to Sangamon Street to the point of the frog at Track No. 7 even with milepost 2.0 on BNSF's main line east of Western Avenue Yard. The Illinois Northern Line is located between a point 10 feet north of the Chicago Sanitary and Ship Canal and a point 100 feet west of the westernmost railroad diamond near 26th and Western Avenue.

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8.

part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: August 12, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–20400 Filed 8–17–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, Loop 567 from Farm to Market Road (FM) 51 to Business Route (BU) 377H in Hood County, Texas. Those actions grant licenses, permits and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 14, 2011. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo. District Engineer, Texas Division, FHWA, 300 East 8th Street, Room 826, Austin, Texas 78701; phone number (512) 536–5950; e-mail: *salvador.deocampo@dot.gov;* FHWA Texas Division normal business hours are 8 a.m. to 5 p.m. (central time) Monday through Friday. You may also contact Ms. Dianna Noble, P.E., Director Environmental Affairs Division, Texas Department of Transportation, 118 E. Riverside, Austin, Texas 78704; phone number (512) 416–2734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Texas: Loop 567 from FM 51 to BU 377H in Hood County, Texas. The project will include the construction of a 2.4 mile long highway that will be constructed in two phases. The interim phase will provide two travel lanes, and the ultimate phase will provide four travel lanes. The project will provide an alternate route to northern portions of Hood County without requiring traffic to traverse historic downtown Granbury. The project will use approximately 0.75 miles of the existing Stockton Bend Road, and the remaining section of roadway (1.65 miles) will be on a new location. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the June 2010 Environmental Assessment (EA) for the project, in the FHWA Finding of No Significant Impact (FONSI) issued on August 3, 2010, and in other documents in the FHWA administrative record. The EA, FONSI, and other documents in the FHWA administrative record are available by contacting the FHWA or the Texas Department of Transportation at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

I. *General:* National Environmental Policy Act [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

II. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

III. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

IV. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Migratory Bird Treaty Act [16 U.S.C. 703–712].

V. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–l1]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)].

VI. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

VII. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 402, Section 319); Rivers and Harbors Act of 1899 [33 U.S.C. 401–406].

VIII. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13175 Consultation and Coordination with Indian Tribal Government; E.O. 11514 Protection and Enhancement of Environmental Quality.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(l).

Issued on: August 9, 2010.

Salvador Deocampo,

District Engineer, Austin, Texas.

[FR Doc. 2010–20218 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–RY–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35399]

Swanson Rail Transfer, L.P.—Lease and Operation Exemption—BDB Company

Swanson Rail Transfer, L.P. (SRT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease from affiliate/noncarrier BDB Company (BDB), and operate a parcel of land, formerly known as the Swanson Rail Yard, in Philadelphia, Pa. The property is approximately 159.54 feet wide and 2,063 feet long and is located about 25 feet east of Interstate Highway 95 between Pattison Avenue and the Delaware River Port Authority right-of-way (Walt Whitman Bridge approach/Interstate Highway 76).[1] SRT will construct [2] and operate a truck-rail transfer facility on the property and provide associated rail common carrier services.

This transaction is related to two other transactions for which notices of exemption have been simultaneously filed: Docket No. FD 35398, *BDB Company—Acquisition Exemption—Consolidated Rail Corporation,* in which BDB seeks Board approval to acquire

[1] According to SRT, there are no mileposts on the property.

[2] SRT states that it will, in a separate proceeding, seek Board authority to construct the transload facility and related rail infrastructure on the property.

from Consolidated Rail Corporation this property before it leases it to SRT; and Docket No. FD 35400, *B. Robert DeMento, Jr., and Baggio Herman DeMento—Continuance in Control Exemption—BDB Company and Swanson Rail Transfer, L.P.,* in which the partners/owners of BDB and SRT, B. Robert DeMento, Jr., and Baggio Herman DeMento, seek Board approval to continue in control of BDB and SRT upon Board approval of this transaction and the transaction in FD 35398.

The transaction may not be consummated until September 1, 2010, the effective date of the exemption (30 days after the exemption was filed).

SRT certifies that, as a result of this transaction, its projected revenues will not exceed those that would qualify it as a Class III carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by no later than August 25, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35399, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy must be served on John F. McHugh, 6 Water Street, New York, N.Y. 10004.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: August 12, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–20444 Filed 8–17–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

TIME AND DATE: September 9, 2010, 12 noon to 3 p.m., Eastern Daylight Time.

PLACE: This meeting will take place telephonically. Any interested person may call 877.768.0032 passcode 4856462 to participate in this meeting by telephone.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: August 16, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20590 Filed 8–16–10; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In July 2010, there were seven applications approved. This notice also includes information on one application, approved in May 2010, inadvertently left off the May 2010 notice. Additionally, 13 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Norfolk Airport Authority, Norfolk, Virginia.

Application Number: 10–02–C–00–ORF.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $37,450,521.

Earliest Charge Effective Date: September 1, 2010.

Estimated Charge Expiration Date: September 1, 2015.

Class of Air Carriers Not Required To Collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Norfolk International Airport.

Brief Description of Project Approved for Collection and Use: PFC consulting services.

Brief Description of Project Partially Approved for Collection and Use: Arrivals terminal.

Determination: Partially approved. The FAA determined that several spaces shown in the terminal floor plan schematics, were not for public use and, therefore, were not approved for use of PFC revenue. The total amount of space identified as ineligible was 6,435 square feet. As a result, the FAA approved 72.5 percent of the project cost rather than the 76.3 percent requested by the public agency.

Brief Description of Withdrawn Projects:

Blast barrier.
Land acquisition.
Access control.
Electrical vault relocation.
Relocate fire station.
Radio controls, runway end identifier lights and precision approach path indicator systems.
By-pass taxiway and hold apron.
Master plan update.
Airfield signage.
Upgrade aircraft rescue and firefighting training facility.
Acquire aircraft rescue and firefighting vehicles.
Snow removal equipment.
Pavement management plan.
Apron lighting.
Rehabilitate runway 5/23.
Relocate airport beacon.
Navigational aids—runway 5/23.
Environmental impact statement, 5R123L.
Preliminary engineering, access road security fence.
Construct perimeter access road.
Security related mandates.
Concourse A and B.
Overlay taxiway C and connectors.
Engineer/design airfield signage.
Rehabilitate taxiway A and general aviation ramp.

Date of withdrawal: April 23, 2010.

Decision Date: May 28, 2010.

FOR FURTHER INFORMATION CONTACT: Jeffrey Breedon, Washington Airports District Office, (703) 661–1363.

Public Agency: Border Coast Regional Airport Authority, Crescent City, California.

Application Number: 10–04–C–00–CEC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $96,221.

Earliest Charge Effective Date: July 1, 2013.

Estimated Charge Expiration Date: July 1, 2018.

Class of Air Carriers Not Required To Collect PFCs: Nonscheduled/on demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Jack McNamara Field.

Brief Description of Projects Approved for Collection and Use:

Installation of security fencing, phase IV.
Rehabilitate runways 11/29 and 17/35.
Environmental assessment/ environmental impact report for runway safety area improvements.
Preliminary engineering support for the environmental assessment/ environmental impact report of the runway safety area improvements.
Wildlife hazard management plan.
Cultural resource consultation and environmental documentations.

Decision Date: July 13, 2010.

FOR FURTHER INFORMATION CONTACT: Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

Public Agency: City of Billings Aviation and Transit Department, Billings, Montana.

Application Number: 10–06–C–00–BIL.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,856,620.

Earliest Charge Effective Date: October 1, 2010.

Estimated Charge Expiration Date: July 1, 2013.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Reconstruct Gate B–4 aircraft parking apron.
Acquire handicap passenger lift device.
Reconstruct general aviation ramps.
Acquire emergency response unit.
Rehabilitate general aviation east—north apron.
Construct new vehicle service road east.

Decision Date: July 15, 2010.

FOR FURTHER INFORMATION CONTACT: Dave Stelling, Helena Airports District Office, (406) 449–5257.

Public Agency: County of San Joaquin, Stockton, California.

Application Number: 10–04–C–00–SCK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $266,523.

Earliest Charge Effective Date: September 1, 2010.

Estimated Charge Expiration Date: September 1, 2011.

Class of Air Carriers Not Required To Collect PFCs: Nonscheduled/on demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Stockton Metropolitan Airport.

Brief Description of Projects Approved for Collection and Use:

Master plan study update.
Rehabilitate runway 11 RJ29L.
Rehabilitate general aviation apron, phases I and II.
Design terminal holdroom modifications.
Aircraft rescue and firefighting station modifications.
Rehabilitate taxiways H and J.

Decision Date: July 16, 2010.

FOR FURTHER INFORMATION CONTACT: Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

Public Agency: County and City of Yakima, Washington.

Application Number: 10–13–C–00–YKM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $178,995.

Earliest Charge Effective Date: April 1, 2011.

Estimated Charge Expiration Date: August 1, 2012.

Class of Air Carriers Not Required To Collect PFCs: Nonscheduled/on demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Yakima Air Terminal/McAllister Field.

Brief Description of Projects Approved for Collection and Use:

Taxiway centerline marking.
Runway 9/27 rehabilitation (design).
Runway 9/27 rehabilitation (construction).
Master plan update.

Decision Date: July 16, 2010.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office, (425) 227–1662.

Public Agency: City of Pocatello, Idaho.

Application Number: 10–06–C–00–PIH.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $465,250.

Earliest Charge Effective Date: June 1, 2011.

Estimated Charge Expiration Date: December 1, 2016.

Class of Air Carriers Not Required To Collect PFCs: Nonscheduled/on demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Pocatello Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Master plan update.
Purchase snow removal equipment.
Security enhancements.
Rehabilitate runway 17/35.
Purchase aircraft rescue and firefighting vehicle.
PFC administration costs.

Decision Date: July 21, 2010.

FOR FURTHER INFORMATION CONTACT: Trang Iran, Seattle Airports District Office, (425) 227–1662.

Public Agency: County of Wicomico, Salisbury, Maryland.

Application Number: 10–03–C–00–SBY.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $783,269.

Earliest Charge Effective Date: June 1, 2012.

Estimated Charge Expiration Date: June 1, 2015.

Class of Air Carriers Not Required To Collect PFCs: Air carriers required to file FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Salisbury—Ocean City, Wicomico Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Remove obstructions, runway 5/23.
Extend runway 14/3 1 construction phase 1.
Construct airport rotating beacon.
Develop PFC application.
Extend runway 14/32 construction phase 2.
Rehabilitate north taxiway C apron.
Refurbish and acquire snow removal equipment.
Rehabilitate taxiway E (design).
Rehabilitate runway 5/23 (design).
Rehabilitate taxiway E (construction).
Rehabilitate runway 5/23 (construction).
Airport master plan update.

Decision Date: July 21, 2010.

FOR FURTHER INFORMATION CONTACT: Jeffrey Breedon, Washington Airports District Office, (703) 661–1363.

Public Agency: Palm Beach Board of County Commissioners, West Palm Beach, Florida.

Application Number: 10–1 1–C–00–PBI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $32,909,846.

Earliest Charge Effective Date: September 1, 2010.

Estimated Charge Expiration Date: May 1, 2013.

Class of Air Carriers Not Required To Collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Palm Beach International Airport (PBI).

Brief Description of Projects Approved for Collection at PBI and Use at PBI at a $4.50 PFC Level:

Construct taxiway exit C4 and shoulders.
Runway 1OL/28R rehabilitation.
Taxiway A rehabilitation.
Runway 14/32 safety area improvements; engineered materials arresting system.

Brief Description of Projects Approved for Collection at PBI and Use at PBI at a $3.00 PFC Level:

Baggage system improvements—design and construction, phase 1.
Airfield lighting control and monitoring system.
Terminal flooring improvements.
Terminal roof improvements.
PFC implementation and administrative costs.

Brief Description of Withdrawn Project: West side access road.

Date of Withdrawal: July 20, 2010.

Decision Date: July 22, 2010.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
01–01–C–01–SHD, Weyers Cave, VA	06/28/10	$207,875	$87,482	12/01/06	12/01/06
03–03–C–02–RAP, Rapid City, SD	06/30/10	2,256,111	2,219,809	05/01/07	05/01/07
03–06–C–04–DSM, Des Moines, IA	07/07/10	11,700,000	11,732,977	04/01/08	04/01/08
02–02–C–03–AVL, Asheville, NC	07/07/10	4,936,653	4,916,517	11/01/06	11/01/06
00–02–I–02–HXD, Hilton Head, SC	07/07/10	2,076,657	1,380,509	10/01/07	10/01/07
00–03–U–01–HXD, Hilton Head, SC	07/07/10	NA	NA	10/01/07	10/01/07
01–02–C–03–HVN, New Haven, CT	07/20/10	572,848	567,286	07/01/05	07/01/05
06–03–C–03–HVN, New Haven, CT	07/20/10	805,753	780,834	05/01/09	05/01/09
05–02–C–02–SBY, Salisbury, MD	07/21/10	1,386,715	921,866	06/01/12	06/01/12
08–17–C–01–BDL, Windsor Locks, CT	07/26/10	11,260,335	11,357,591	07/01/21	07/01/21
94–02–C–01–ACV, Arcata, CA	07/27/10	369,500	503,521	11/01/96	11/01/96
96–03–C–01–ACV, Arcata, CA	07/27/10	225,258	263,779	11/01/97	11/01/97
03–05–C–01–ACV, Arcata, CA	07/27/10	93,000	95,412	07/01/03	07/01/03

Issued in Washington, DC, on August 10, 2010.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2010–20228 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2010–36]

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 Title 14, Code of Federal Regulations (CFR) part 25. 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 September 7, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2010–0597 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: Michael Menkin, ANM–113, Standardization Branch, Federal Aviation Administration, Transport Airplane Directorate, 1601 Lind Ave., SW., Renton, WA 98057; e-mail *Michael.Menkin@faa.gov;* 425–227–2793; fax: 425–227–1320; or Katherine Haley, ARM–203, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW.; Washington, DC 20591; e-mail *Katherine.L.Haley@faa.gov;* (202) 493–5708; fax (202) 267–5075.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 13, 2010.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2010–0597.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.853(d) Amdt. 25–83.

Description of Relief Sought: To provide relief from heat release and smoke density testing for one inch energy absorbing padding installed on the edges of business class passenger seat partition walls on Boeing Model 777–300ER series airplanes. The padding is used to reduce the potential for head injury from an emergency landing or turbulence.

[FR Doc. 2010–20464 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2010–35]

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 September 7, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2010–0750 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 August 13, 2010.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2010–0750.

Petitioner: Delta Air Lines, Inc.

Section of 14 CFR Affected: 14 CFR 121.291(b).

Description of Relief Sought: Delta Air Lines, Inc. requests relief from a partial demonstration of emergency evacuation procedures as addressed in 14 CFR 121.291(b) on newly configured MD–88 aircraft.

[FR Doc. 2010–20463 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2010–0108, Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1990–1996 ALPINA Burkard Bovensiepen GmbH B12 2-Door Coupe Model Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990–1996 ALPINA Burkard Bovensiepen GmbH (ALPINA) B12 2-door coupe model 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 1990–1996 ALPINA B12 2-door coupe model 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 have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is September 17, 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)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

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**.

101 Innovations, LLC, of Ferndale, Washington (101 Innovations) (Registered Importer 07–350) has petitioned NHTSA to decide whether nonconforming 1990–1996 ALPINA B12 2-door coupe model passenger cars are eligible for importation into the United States. 101 Innovations believes that these vehicles are capable of being modified to meet all applicable FMVSS.

In its petition, 101 Innovations described the 1990–1996 ALPINA B12 2-door coupe as a modified version of the 1991–1997 BMW 8-series (e31) 2-door coupe that was manufactured for sale in the United States and certified by BMW as complying with all applicable FMVSS. The petitioner noted, however, that these vehicles were altered by ALPINA and, as altered, were assigned vehicle identification numbers (VINs) by ALPINA that differ from those assigned to the base vehicles by BMW. In view of these circumstances, the petitioner acknowledged that it could not base its petition on the substantial similarity of the 1990–1996 ALPINA B12 2-door coupe to the U.S.-certified 1991–1997 BMW 8-series (e31) 2-door coupe, but would instead need to establish import eligibility on the basis that the vehicles have safety features that comply with, or are capable of being modified to comply with, the FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate. The petitioner did note, however, that the 1990–1996 ALPINA B12 2-door coupe utilizes the same components as the U.S.-certified 1991–1997 BMW 8-series (e31) 2-door coupe in virtually all of the systems subject to the FMVSS.

101 Innovations submitted information with its petition intended to demonstrate that non-U.S. certified 1990–1996 ALPINA B12 2-door coupe model passenger cars conform to many FMVSS and are capable of being altered to comply with all other standards to which they were not originally manufactured to conform.

Specifically, the petitioner claims that non-U.S. certified 1990–1996 ALPINA B12 2-door coupe model passenger cars, as originally manufactured, conform to: 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 Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 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,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hub Caps,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also contends that the vehicles are capable of being altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Installation of U.S.-model instrument cluster and U.S.-version software.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of U.S.-model: (a) Headlamps; (b) front and rear side marker lamps; and (c) rear high mounted stop lamp and associated wiring.

Standard No. 110 *Tire Selection and Rims:* Installation on the vehicle of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Installation of a 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 U.S.-version software and a U.S.-model ignition switch to meet the requirements of this standard.

Standard No. 115 *Vehicle Identification:* Installation of a vehicle identification plate near the left windshield post to meet the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Inspection of all vehicles and modification or deactivation of any remote activation features that cause the system not to conform to the standard.

Standard No. 208 *Occupant Crash Protection:*

(a) Installation of U.S.-model knee bolsters; and (b) inspection of all vehicles and replacement of any non U.S.-model air bag system components, including all warning systems, warning labels and telltales, with U.S.-model components on vehicles not already so equipped.

Standard No. 209 *Seat Belt Assemblies:* Inspection of all vehicles and replacement of any non U.S.-model seat belt components on vehicles not already so equipped.

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: August 12, 2010.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2010–20433 Filed 8–17–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a new information collection that is to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital Form SLT, Report of U.S. and Foreign Resident Aggregate Holdings of Long-Term Securities.

The recent global financial crisis has highlighted the importance of enhanced surveillance of the world economy. As a consequence, the international financial community has a heightened awareness of the importance of collecting economic and financial data, including more frequent and accurate data regarding each country's external claims and liabilities. As a result, the United States needs to collect certain data on a more frequent and accurate basis, including monthly holdings of long-term securities. Data on securities are important because they constitute a large portion of U.S. external claims and liabilities. The Treasury International Capital (TIC) data reporting system currently collects monthly data on holdings of short-term securities and on purchases and sales of long-term securities. It also collects data annually, but not monthly, on holdings of long-term securities. Although the annual data currently collected on holdings of long-term securities, together with the monthly data on purchases and sales, can be used to estimate aggregate monthly holdings of long-term securities, the time required to produce the estimates is lengthy and the estimates must usually be revised substantially when the subsequent annual survey is released. Consequently, the Department of the Treasury is proposing the Form SLT to collect data on holdings of long-term securities on a monthly basis so as to ensure more timely and accurate measurement of the aggregate holdings of long-term securities. That, in turn, will help improve the preparation of the U.S. balance of payments accounts and the U.S. international investment position, as well as the formulation of U.S. international financial and monetary policies.

DATES: Written comments should be received on or before October 18, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*dwight.wolkow@do.treas.gov*), FAX (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms webpage, *http://www.treas.gov/tic/forms.html.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION: *Title:* Treasury International Capital Form SLT, Report of U.S. and Foreign Resident Aggregate Holdings of Long-Term Securities.

OMB Control Number: NEW.

Abstract: Form SLT will be part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR Part 128) for the purpose of providing timely information on international capital movements. Form SLT will be used to collect monthly data on cross-border ownership by U.S. and foreign residents of long-term securities for portfolio investment purposes. These data will be used by the U.S. Government in the formulation of international and financial policies and for the preparation of the U.S. balance of payments accounts and the U.S. international investment position.

Current Actions: (a) The fair values of long-term U.S. securities owned by foreign residents and long-term foreign securities owned by U.S. residents are to be reported on Form SLT. (b) The reporting panel for Form SLT consists of U.S.-resident custodians, U.S.-resident issuers of U.S. securities, and U.S.-resident end-investors in foreign securities, where for each reporting entity, the consolidated total of all reportable long-term U.S. and foreign securities on the last business day of the reporting month has a total fair value equal to or more than the exemption level. The exemption level is $1 billion. This consolidated total includes amounts held for a reporting entity's own account and for customers. The reporting entity should include reportable securities for all U.S.-resident parts of the reporting entity, including all U.S. subsidiaries and affiliates of the reporting entity and investment companies, trusts, and other legal entities created by the reporting entity. U.S.-resident entities include the affiliates in the United States of foreign entities. Reportable long-term securities include: (1) U.S. securities held by U.S.-resident custodians on behalf of foreign residents; (2) foreign securities held by U.S.-resident custodians on behalf of U.S. residents; (3) U.S. securities issued by U.S.-resident issuers in foreign markets and held directly by foreign residents, *i.e.,* where no U.S.-resident custodian or U.S.-resident central securities depository is used by the U.S.-resident issuer; and (4) foreign securities held directly by U.S.-resident end-investors, *i.e.,* where no U.S.-resident custodian is used by the U.S.-

resident end-investor. Securities held as part of a direct investment relationship should not be reported. (c) Form SLT consists of Parts A and B, each of which is divided into 13 columns. Part A is required to be completed by U.S.-resident custodians (including U.S.-resident central securities depositories). Columns 1 through 9 of Part A capture long-term U.S. securities owned by foreign residents that are held by U.S.-resident custodians. Columns 10 through 13 of Part A capture foreign securities owned by U.S. residents that are held by U.S.-resident custodians. Part B is required to be completed by U.S.-resident issuers and U.S.-resident end-investors, including funds and investment managers. Columns 1 through 9 of Part B, to be completed by U.S.-resident issuers, capture long-term U.S. securities that are issued by them in foreign markets and are held directly by foreign residents, *i.e.* where no U.S.-resident custodian or U.S.-resident central securities depository is used by the U.S.-resident issuer. Columns 10 through 13 of Part B, to be completed by U.S.-resident end-investors, capture long-term foreign securities that are owned directly by them, *i.e.* where no U.S.-resident custodian is used by the U.S.-resident end-investor. If a reporting entity is both a U.S.-resident custodian and a U.S.-resident issuer and/or a U.S.-resident end-investor, then both Parts A and B must be completed. (d) In both Parts A and B, columns 1 through 9 cover U.S. securities owned by foreign residents, where each row denotes the residence of the foreign holder. Each of the columns captures a different type of long-term U.S. securities: Columns 1 and 2 cover U.S. Treasury and Federal Financing Bank Bonds and Notes; columns 3 and 4 cover Bonds of U.S. Government Corporations and Federally Sponsored Agencies; columns 5 and 6 cover U.S. Corporate and Other Bonds; and columns 7 and 8 cover U.S. Equity. Further, each of the columns is also subdivided into the two types of foreign holders: foreign official institutions (columns 1, 3, 5, and 7) and all other foreigners (columns 2, 4, 6 and 8). Column 9 is the total of columns 1 through 8. Columns 10 through 13 cover foreign securities owned by U.S. residents, where each row denotes the residence of the foreign issuer. Each of the columns captures a different type of foreign security: Column 10 covers Foreign Government Bonds, column 11 covers Foreign Corporate and Other Bonds, and column 12 covers Foreign Equity. Column 13 is the total of columns 10, 11 and 12. The Grand Total of each column is reported in row 9999–6. (e) For each Grand Total, additional detailed subtotals are also to be reported. For that purpose, the Grand Total of each column (row 9999–6) is broken out, depending on the column, into the following subtotals: Type of Security (Asset-Backed Securities and Fund Shares); Type of U.S. Issuer (Depository Institutions, Other Financial Institutions, and Non-Financial Institutions); and Type of U.S. Holder (Depository Institutions, Other Financial Institutions, and Non-Financial Institutions). (f) In any month in which the consolidated total of all reportable long-term U.S. and foreign securities for a reporting entity has a total fair value equal to or more than the exemption level on the last business day of a reporting month, that reporting entity must submit a report for that month. In addition, the reporting entity also must submit a report for each remaining month in that calendar year, regardless of the consolidated total of reportable long-term U.S. and foreign securities held in any subsequent month. (g) These mandatory reporting requirements will be phased in during 2011. In 2011, the Form SLT will be required to be submitted quarterly as of June 30, September 30, and December 30, with the mandatory monthly reporting on Form SLT beginning with the report as of January 31, 2012.

Type of Review: NEW.

Affected Public: Business or other for profit organizations.

Form: SLT (NEW).

Estimated Number of Respondents: 150.

Estimated Average Time per Respondent: 9.4 hours per respondent per filing, effective with the report as of January 2012 when mandatory monthly reporting is fully implemented. The estimated average time per respondent varies widely from about 17 hours for a U.S.-resident custodian filing Part A to about five hours for a U.S.-resident issuer or U.S.-resident end-investor filing Part B.

Estimated Total Annual Burden Hours: 21,500 hours, based on 12 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form SLT is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance, and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2010–20347 Filed 8–17–10; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–47: OTS No. H–4732]

Northfield Bancorp, Inc., Staten Island, NY; Approval of Conversion Application

Notice is hereby given that on August 9, 2010, the Office of Thrift Supervision approved the application of Northfield Bancorp, MHC and Northfield Bank, Staten Island, New York, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail *Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS Northeast Regional Office, Harborside Financial Center Plaza Five, Suite 1600, Jersey City, NJ 07311.

Dated: August 10, 2010.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. 2010–20020 Filed 8–17–10; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–48 OTS Nos. 03912 and H4739]

Bank of Ruston, Ruston, Louisiana; Approval of Conversion Application

Notice is hereby given that on August 11, 2010, the Office of Thrift Supervision approved the application of Bank of Ruston, Ruston, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (*phone number:* (202) 906–5922 or *e-mail: public.info@ots.treas.gov*) at the Public Reading Room, 1700 G Street, NW.,

Washington, DC 20552, and the OTS Western Regional Office, 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326.

Dated: August 11, 2010.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. 2010–20248 Filed 8–17–10; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Consumer Protections for Depository Institution Sales of Insurance

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before September 17, 2010. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at *ira.mills@ots.treas.gov,* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Consumer Protection for Depository Institution Sales of Insurance.

OMB Number: 1550–0106.

Form Number: N/A.

Regulation requirement: 12 CFR Part 536.

Description: These information collections are required under section 305 of the Gramm-Leach-Bliley Act (GLB Act), Public Law 106–102. Section 305 of the GLB Act required the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision to prescribe joint consumer protection regulations. OTS's regulations are found at 12 CFR part 536. The regulations apply to retail sales practices, solicitations, advertising, and offers of any insurance product by a depository institution or by other persons performing these activities at an office of the institution or on behalf of the institution. Section 305 requires those performing such activities to disclose certain information to consumers and to obtain consumers' acknowledgements.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 765.

Estimated Burden Hours per Response: 1.5 minutes.

Estimated Number of Responses: 629,660.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 15,742 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: August 12, 2010.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2010–20361 Filed 8–17–10; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Members of Senior Executive Service Performance Review Boards

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish the names of those IRS employees who will serve as members on IRS' Fiscal Year 2010 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Sharnetta Walton, 1111 Constitution Avenue, NW., Room 2403, Washington, DC 20224, (202) 622–6246.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members to the Internal Revenue Service's SES Performance Review Boards. The names and titles of the executives serving on the boards follow:

Steven T. Miller, Deputy Commissioner for Services and Enforcement

Mark A. Ernst, Deputy Commissioner for Operations Support

Brady R. Bennett, Director, Compliance, Wage and Investment (W&I)

Peggy A. Bogadi, Deputy Commissioner for Operations (W&I)

Lauren Buschor, Deputy Associate CIO, Enterprise Operations, Modernization and Information Technology Services (MITS)

Richard E. Byrd, Commissioner (W&I)

Robin L. Canady, Director, Strategy and Finance (W&I)

Susan W. Carroll, Director, Customer Assistance, Relationships and Education (W&I)

Debra C. Chew, Executive Director, Office of Equity, Diversity and Inclusion

Robert N. Crawford, Associate CIO, Enterprise Services (MITS)

Michael Danilack, Deputy Commissioner, International, Large and Mid-Size Business (LMSB)

Jonathan M. Davis, Chief of Staff, Office of the Commissioner

Paul D. DeNard, Deputy Commissioner, Operations (LMSB)

Alison L. Doone, Chief Financial Officer

Vicki S. Duane, Director, International Operations, Criminal Investigation (CI)

Alain Dubois, Director, Research, Small Business/Self Employed (SB/SE)

James P. Falcone, IRS Human Capital Officer

Faris R. Fink, Deputy Commissioner (SB/SE)

Carl T. Froehlich, Associate CIO, End User and Equipment Services (MITS)
Silvana G. Garza, Associate CIO, Affordable Care Act Program Management Office (MITS)
David A. Grant, Chief, Agency-Wide Shared Services
Joseph H. Grant, Deputy Commissioner, Tax Exempt and Government Entities (TEGE)
John H. Imhoff, Jr., Director Specialty Programs (SB/SE)
Sarah Hall Ingram, Commissioner (TEGE)
William H. Holmes, Project Director, Data Strategy Implementation (SB/SE)
Robin DelRey Jenkins, Director, Business Systems Planning (SB/SE)
Rebecca Mack Johnson, Director, Strategy and Finance (SB/SE)
Michael D. Julianelle, Director, Employee Plans (TEGE)
Gregory E. Kane, Deputy Chief Financial Officer
Frank M. Keith, Jr., Chief, Communications and Liaison
Lois G. Lerner, Director, Exempt Organizations (TEGE)
Heather C. Maloy, Commissioner (LMSB)
Stephen L. Manning, Associate CIO, Enterprise Networks (MITS)
Rosemary D. Marcuss, Director, Research, Analysis and Statistics
Gretchen R. McCoy, Associate CIO, Modernization Program Management Office (MITS)
James M. McGrane, Deputy CIO for Strategy/Modernization (MITS)
Moises C. Medina, Director, Government Entities (TEGE)
Terence V. Milholland, Chief Technology Officer
Katherine M. Miller, Associate CIO, Applications Development (MITS)
Debra L. Nelson, Director, Management Services (MITS)
Nina E. Olson, National Taxpayer Adovcate
Orland M. Parker, Associate CIO, Strategy and Planning (MITS)
Rick A. Raven, Deputy Chief (CI)
Julie Rushin, Deputy CIO for Operations (MITS)
Diane S. Ryan, Chief, Appeals
Melissa R. Snell, Deputy National Taxpayer Advocate
Victor S. O. Song, Chief (CI)
David W. Stender, Associate CIO, Cybersecurity (MITS)
Peter J. Stipek, Director, Customer Accounts Services (W&I)
Keith V. Taylor, Director, Human Resources (SB/SE)
Michael J. Thomas, Director, Operations Policy and Support (CI)
Elizabeth Tucker, Deputy Commissioner for Support (W&I)
Peter C. Wade, Business Modernization Director (W&I)
Christopher Wagner, Commissioner (SB/SE)
Robert C. Wilkerson, Director, Communications, Liaison and Disclosure (SB/SE)
David R. Williams, Director, Electronic Tax Administration and Refundable Credits (W&I)
Deborah G. Wolf, Director, Office of Privacy, Information Protection and Data Security

This document does not meet the Department of the Treasury's criteria for significant regulations.

Dated: August 9, 2010.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

[FR Doc. 2010–20331 Filed 8–17–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID: OTS–2010–0026]

OTS Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of Thrift Supervision (OTS).

ACTION: Notice.

SUMMARY: The Charter for the OTS Minority Depository Institutions Advisory Committee will renew for a two-year period beginning August 2, 2010.

FOR FURTHER INFORMATION CONTACT: Deirdre A. Foley, Designated Federal Official, (202) 906–5750, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Notice is hereby given under section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), and with the approval of the Secretary of the Treasury to announce the renewal of the OTS Minority Depository Institutions Advisory Committee (MDIAC). The purpose of the OTS Minority Depository Institutions Advisory Committee is to advise OTS on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, Title III, 103 Stat. 353, 12 U.S.C.A. § 1463 note. The goals of section 308 are to preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions. The MDIAC will help OTS meet those goals by providing informed advice and recommendations regarding a range of issues involving minority depository institutions.

Dated: August 11, 2010.

By the Office of Thrift Supervision.

Deirdre A. Foley,

Designated Federal Official.

[FR Doc. 2010–20285 Filed 8–17–10; 8:45 am]

BILLING CODE 6720–01–M

TENNESSEE VALLEY AUTHORITY

Notice of Sunshine Act Meeting

August 20, 2010.

Meeting No. 10–04

The TVA Board of Directors will hold a public meeting on August 20, 2010, at the TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee 37902 to consider the matters listed below. The public may comment on any agenda item or subject at a *public listening session* which begins at 8:30 a.m. EDT. Immediately following the end of the public listening session, the meeting will be called to order to consider the agenda items listed below.

Please Note: Speakers must pre-register online at TVA.gov or sign in before the meeting begins at 8:30 a.m. on the day of the meeting. The Board will answer questions from the news media following the Board meeting.

STATUS: Open.

Agenda

Old Business

Approval of minutes of June 10, 2010, Board Meeting.

New Business

1. Welcome.
2. President's Report.
3. Chairman's Report.

A. Approval of TVA Board Committee Charters.

B. Vision and Strategic Direction.

4. Report of the Finance, Rates, and Portfolio Committee.

A. Fiscal Year 2011 Budget, including (i) limited funding relating to Bellefonte Nuclear Plant Unit 1, (ii) contract with Texas Gas Transmission, LLC, for gas transportation; and (iii) contract with GE Hitachi Global Laser Enrichment LLC for uranium enrichment services.

B. Fiscal Year 2011 Financial Bond Issuance Authority.

C. Rate actions, including (i) Rate Structure Change, (ii) related Rate Adjustment to revise the Fuel Cost Adjustment formula, and (iii) related Pilot Rates.

D. Ash and Gypsum Facility Contracts, including (i) engineering

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5. Report of the People and Performance Committee.

A. FY 2011 Annual Incentive Measures and Goals.

6. Report of the Audit, Risk, and Regulation Committee.

A. Enterprise Risk Management Policy.

7. Report of the Customer and External Relations Committee.

A. Chickamauga Marina—Commercial Recreation Lease with Erwin Marine Sales, Inc.

B. Fort Loudon Marina—Commercial Recreation Easement with Fort Loudon Marina, LLC.

FOR MORE INFORMATION: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: August 13, 2010.

Ralph E. Rodgers,

Acting General Counsel and Secretary.

[FR Doc. 2010–20551 Filed 8–16–10; 11:15 am]

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