AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

9–3–10 Friday
Vol. 75 No. 171 Sept. 3, 2010

Pages 54005–54270

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register**, *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 75 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, September 14, 2010
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 75, No. 171

Friday, September 3, 2010

Agriculture Department
See Farm Service Agency
See Forest Service
See Rural Utilities Service

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54183–54184

Army Department
See Engineers Corps

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Bureau of Ocean Energy Management, Regulation and Enforcement

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54164–54175

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54151–54152

Centers for Medicare & Medicaid Services
PROPOSED RULES
Medicaid Program:
Withdrawal of Determination of Average Manufacturer Price, Multiple Source Drug Definition, and Upper Limits, 54073–54076
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54149–54151
Privacy Act; Systems of Records, 54162–54163

Coast Guard
RULES
Drawbridge Operation Regulations:
Atlantic Intracoastal Waterway, Camp Lejeune, NC, 54023
Shaw Cove, New London, CT, Maintenance, 54024
Trent River, New Bern, NC, 54024–54025
Revision of LNG and LHG Waterfront Facility General Requirements, 54025
Safety Zones:
Red Bull Flugtag, Delaware River, Camden, NJ, 54026–54028
Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil, 54026
Vessel and Facility Response Plans for Oil:
2003 Removal Equipment Requirements and Alternative Technology Revisions, 54025–54026
PROPOSED RULES
Drawbridge Operation Regulations:
Curtis Creek, Baltimore, MD; Withdrawal, 54069

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 54114–54115
Procurement List; Proposed Additions and Deletions, 54115

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54227–54230

Defense Department
See Engineers Corps

Economic Development Administration
NOTICES
Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance, 54094–54095

Employment and Training Administration
NOTICES
Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance, 54184–54188
Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance, 54188–54189

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
PROPOSED RULES
Energy Efficiency Program:
Test Procedure for Televisions, 54048–54052
NOTICES
Applications to Export Electric Energy:
Powerex Corp., 54116–54117
Building Energy Standards Program; Preliminary Determinations:
Energy Efficiency Improvements in the Energy Standard for Buildings, etc., 54117–54131
Updating State Residential Building Energy Efficiency Codes, 54131–54142

Energy Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54143

Engineers Corps
NOTICES
Intent To Grant Partially Exclusive Licenses:
Patent Application No. 12/243,084: Entitled Soluble Salt Produced From Biopolymer and Process for Producing Salt, 54115–54116
Patent Application No. 12/243,084; Soluble Salt Produced From Biopolymer and Process for Producing Salt, 54116

Environmental Protection Agency
RULES
Approvals and Promulgations of Implementation Plans:
Designation of Areas for Air Quality Planning Purposes; State of California, etc., 54031–54033
Pesticide Tolerances:
Thiabendazole, 54033–54040
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The SunWise Program, 54143–54145
Environmental Impact Statements; Availability, etc.:
Weekly Receipt, 54145–54146
Meetings:
Clean Air Scientific Advisory Committee; Ambient Air Methods and Monitoring Subcommittee, 54146–54147
Product Cancellation Order for Certain Pesticide Registrations, 54147–54148

Executive Office of the President
See Presidential Documents

Farm Service Agency
RULES
Conservation Loan Program, 54005–54016
NOTICES
Meetings:
Dairy Industry Advisory Committee, 54085–54086

Federal Aviation Administration
PROPOSED RULES
Proposed Modifications of Class E Airspace:
Portland, OR, 54057–54058
Proposed Revocation of VOR Federal Airway V–284:
New Jersey, 54058–54059
NOTICES
Meetings:
Government/Industry Aeronuaticial Charting Forum, 54221
RTCA NextGen Advisory Committee, 54221–54222
Waivers of Aeronautical Land-Use Assurance:
Williamson County Regional Airport, Marion, IL, 54224–54225

Federal Communications Commission
RULES
Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities:
Extension of Waiver, 54040–54041

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54227–54230

Federal Emergency Management Agency
PROPOSED RULES
National Flood Insurance Program:
Policy Wording Correction, 54076–54078

Federal Energy Regulatory Commission
PROPOSED RULES
Demand Response Compensation in Organized Wholesale Energy Markets:
Technical Conference, 54063–54064

Federal Financial Institutions Examination Council
PROPOSED RULES
Description of Office, Procedures, and Public Information, 54052–54056

Federal Highway Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Showhegan and Madison, Somerset County, ME, 54220–54221

Federal Railroad Administration
NOTICES
Application for Approval of Discontinuance or Modification of a Railroad Signal System, etc., 54219–54220
Petitions for Waivers of Compliance, 54222–54224

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54227–54230
Changes in Bank Control:
Acquisition of Shares of Banks or Bank Holding Companies, 54148
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 54148

Food and Drug Administration
RULES
Implantation or Injectable Dosage Form New Animal Drugs:
Florfenicol and Flunixin, 54018–54019
New Animal Drugs for Use in Animal Feed:
Ractopamine, 54019–54020
New Animal Drugs:
Change of Sponsor's Name and Address, 54016–54017
New Animal Drugs; Change of Sponsor:
Penicillin G Benzathine and Penicillin G Procaine Suspension; Penicillin G Procaine Aqueous Suspension, 54017
Oral Dosage Form New Animal Drugs:
Praziquantel and Pyrantel, 54018
NOTICES
Determination of Regulatory Review Period for Purposes of Patent Extension:
NEURX DIAPHRAGM PACING SYSTEM, 54152–54153
International Conference on Harmonisation:
Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts, etc.; Availability, 54153–54154
Medical Devices:
Safety and Effectiveness Summaries for Premarket Approval Applications; Availability, 54154–54155

Foreign-Trade Zones Board
NOTICES
Grant of Authority for Subzone Status:
CNH America, LLC (Agricultural Equipment Manufacturing); Grand Land, NE, 54092

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Big Moose Vegetation Management Project, Divide Ranger District, Rio Grande National Forest, CO, 54085

Health and Human Services Department
See Centers for Disease Control and Prevention

See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Housing and Urban Development Department
RULES
Federal Housing Administration Risk Management Initiatives:
New Loan-to-Value and Credit Score Requirements, 54020–54023
NOTICES
Federal Property Suitable as Facilities To Assist the Homeless, 54236–54259
Funding Availabilities:
Fiscal Year 2009 Section 202 Demonstration Pre-Development Grant Program, 54163

Interior Department
See Bureau of Ocean Energy Management, Regulation and Enforcement
See Land Management Bureau
See National Park Service
NOTICES
Renewal of the Lake Champlain Sea Lamprey Control Alternatives Workgroup, 54163–54164

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54226–54227, 54231–54232

International Trade Administration
NOTICES
Education Trade Mission to Indonesia and Vietnam, 54087–54089
Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review:
Certain Cased Pencils From the People's Republic of China, 54089–54090
Final Results of Antidumping Duty Administrative Review:
Stainless Steel Bar From India, 54090–54091

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Alaska Native Claims Selection, 54175–54176
Applications for Recordable Disclaimer of Interest:
Lands Underlying Kuskokwim River in Alaska, 54176
Environmental Impact Statements; Availability, etc.:
Jarbidge Field Office Resource Management Plan, Idaho, 54177–54179
Tonopah Solar Energy Crescent Dunes Solar Energy Project, Nye County, NV, 54177
Temporary Closures:
Lands West of North Menan Butte, ID, 54183

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54189–54190
Meetings:
NASA Advisory Council; Education and Public Outreach Committee, 54190

National Highway Traffic Safety Administration
RULES
Insurer Reporting Requirements:
List of Insurers Required To File Reports, 54041–54044
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54217–54218
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Reports, Forms, and Recordkeeping Requirements, 54218–54219

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 54156–54157, 54159–54160
Center for Scientific Review; Correction, 54160
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 54155–54156, 54158–54159
National Cancer Institute, 54161–54162
National Center for Complementary and Alternative Medicine, 54161
National Institute of Dental and Craniofacial Research, 54157–54158
National Institute of Neurological Disorders and Stroke, 54162
National Institute on Aging, 54156, 54159–54161
National Library of Medicine, 54157

National Oceanic and Atmospheric Administration
RULES
Fisheries in Western Pacific:
Community Development Program Process, 54044–54047
PROPOSED RULES
International Fisheries:
Pacific Tuna Fisheries; Vessel Capacity Limit in the Purse Seine Fishery in the Eastern Pacific Ocean, 54078–54083
NOTICES
Meetings:
New England Fishery Management Council, 54093
North Pacific Fishery Management Council, 54092
Permits:
Marine Mammals; File No. 4861790, 54094
Marine Mammals; File No. 5551870, 54093–54094
Takes of Marine Mammals Incidental to Specified Activities:
Low-Energy Marine Seismic Survey in the Eastern Tropical Pacific Ocean Off Central and South America, 54095–54114

National Park Service
NOTICES
Implementation of Alternative Valuation Formulas for Leasehold Surrender Interests:
Signal Mountain Lodge and Leeks Marina Proposed Concession Contract, Grand Teton National Park, 54179–54183

Nuclear Regulatory Commission
NOTICES
Environmental Impact Statements; Availability, etc.:
Southern Nuclear Operating Co., Vogtle Electric Generating Plant Units 3 and 4, 54190–54191

Occupational Safety and Health Administration
PROPOSED RULES
Consultation Agreements:
Proposed Changes to Consultation Procedures, 54064–54069

Patent and Trademark Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Global Intellectual Property Academy Program Survey, 54086–54087

Pension Benefit Guaranty Corporation
NOTICES
Pendency of Request for Exemptions From the Bond/Escrow Requirement Relating to the Sale of Assets, etc.:
Ricketts Acquisition LLC and the Chicago National League Ball Club, LLC, 54191–54192

Postal Regulatory Commission
NOTICES
Post Office Closing, 54192–54193

Presidential Documents
EXECUTIVE ORDERS
Courts-Martial Manual, United States; Amendments (EO 13552), 54261–54270

Public Debt Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54226

Rural Utilities Service
NOTICES
Environmental Assessments; Availability, etc.:
Southern Maryland Electric Cooperative, 54084–54085

Securities and Exchange Commission
PROPOSED RULES
Extension of Filing Accommodation for Static Pool Information in Filings with Respect to Asset-Backed Securities, 54059–54063
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54193–54197
Applications for Deregistration Under Section 8(f) of 1940 Investment Company Act, 54197–54199
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc.; NASDAQ OMX BX, Inc.; Chicago Board Options Exchange, Inc. et al., 54211
Financial Industry Regulatory Authority, Inc., 54210–54211
NASDAQ OMX PHLX, Inc., 54204–54210
NYSE Arca, Inc., 54199–54204

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54211–54213
Privacy Act; Systems of Records, 54213–54214

Surface Transportation Board
NOTICES
Abandonment Exemptions:
CSX Transportation, Inc.; Clay County, KY, 54216–54217
East Penn Railroad, LLC, Montgomery County, Pa., 54215–54216
Operation Exemptions:
Piedmont and Northern Railway, Inc., North Carolina Department of Transportation, 54222

Thrift Supervision Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54227–54230

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Uniform Administrative Requirements For Grants and Cooperative Agreements to State and Local Governments, etc., 54215

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
See Public Debt Bureau
See Thrift Supervision Office
NOTICES
Request for Comments:
National Strategy for Financial Literacy 2010, 54225–54226

Veterans Affairs Department
RULES
Technical Revisions to Conform With 2008 Veterans' Mental Health Care Act and Other Laws, 54028–54030
PROPOSED RULES
U.S. Paralympics Monthly Assistance Allowance, 54069–54073
NOTICES
Meetings:
Geriatrics and Gerontology Advisory Committee, 54232–54233

Separate Parts In This Issue

Part II
Housing and Urban Development Department, 54236–54259

Part III
Presidential Documents, 54261–54270

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
13552 54263

7 CFR
761 54005
762 54005
764 54005
765 54005
766 54005

10 CFR
Proposed Rules:
430 54048

12 CFR
Proposed Rules:
1101 54052

14 CFR
Proposed Rules:
71 (2 documents) 54057, 54058

17 CFR
Proposed Rules:
232 54059

18 CFR
Proposed Rules:
35 54063

21 CFR
510 (2 documents) 54016, 54017
520 54018
522 (2 documents) 54017, 54018
558 54019

24 CFR
Ch. II 54020

29 CFR
Proposed Rules:
1908 54064

33 CFR
117 (3 documents) 54023, 54024
127 54025
154 54025
155 (2 documents) 54025, 54026
165 54026
Proposed Rules:
117 54069

38 CFR
17 54028
Proposed Rules:
76 54069

40 CFR
52 54031
81 54031
180 54033

42 CFR
Proposed Rules:
447 54073

44 CFR
Proposed Rules:
61 54076

47 CFR
64 54040

49 CFR
544 54041

50 CFR
665 54044
Proposed Rules:
300 54078

Rules and Regulations

Federal Register

Vol. 75, No. 171

Friday, September 3, 2010

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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761, 762, 764, 765, and 766

RIN 0560–AI04

Conservation Loan Program

AGENCY: Farm Service Agency, USDA.

ACTION: Interim final rule.

SUMMARY: The Farm Service Agency (FSA) is implementing the new Conservation Loan (CL) Program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). This interim rule adds the CL Program provisions to the existing direct and guaranteed loan regulations. These provisions will provide CL Program eligibility and servicing options for the direct and guaranteed loans made through the CL Program.

DATES: *Effective Date:* This rule is effective September 3, 2010.

Comment Date: We will consider comments on this rule and on the information collection activities that we receive by November 2, 2010.

ADDRESSES: We invite you to submit written comments on this interim rule and on the information collection. In your comment, include the volume, date, and page number of this issue of the **Federal Register.** You may also send comments about the information collection requests to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. You may submit comments by any of the following methods:

- *E-mail: connie.holman@wdc.usda.gov.*
- *Fax:* (202) 720–6797.
- *Mail:* Director, Loan Making Division, FSA, USDA, 1400 Independence Avenue, SW., Stop 0522, Washington, DC 20250–0522.
- *Hand Delivery or Courier:* Deliver comments to FSA, LMD, 1280 Maryland Avenue, SW., Suite 240, Washington, DC 20024.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Comments may be inspected in the Office of the Director, LMD, FSA, at 1280 Maryland Avenue, SW., Suite 240, Washington, DC, Monday through Friday between 8 a.m. and 4:30 p.m., except holidays.

FOR FURTHER INFORMATION CONTACT: Connie Holman, Senior Loan Officer, LMD, FSA; telephone: (202) 690–0756; fax: (202) 720–6797; e-mail: *connie.holman@wdc.usda.gov.* Persons with disabilities or who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

Currently, FSA's Farm Loan Programs (FLP) regulations do not specifically address financing needs for approved conservation practices. Section 5002 of the 2008 Farm Bill (Pub. L. 110–246) amends section 304 of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1924) to authorize the Secretary to make or guarantee qualified conservation loans to eligible borrowers to cover the cost of carrying out a qualified conservation project. FSA is inserting CL Program provisions in the existing direct and guaranteed loan regulations and is therefore amending 7 CFR parts 761, 762, 764, 765, and 766 to include the CL program. This rule provides definitions, eligibility requirements, and program uses that will be specific only to the CL Program. The CL Program will also contain several specific exceptions that differ from many of FSA's more stringent traditional loan program requirements such as family farm requirements, test for credit, and graduation based on section 304 of the CONACT. In addition, in many cases FSA will partner with cost share programs provided by the Natural Resources and Conservation Service (NRCS), USDA, to provide funding for the implementation of qualified conservation practices as outlined in an approved conservation plan developed by NRCS.

Farm Loan Programs, General Program Administration

The FLP General Program Administration regulations in 7 CFR part 761 include regulations addressing general provisions, supervised bank accounts, supervised credit, allocation of FLP funds to State offices. The regulations in 7 CFR part 761 provide the general and administrative regulations for both guaranteed and direct loans and will, therefore, apply to the CL Program.

Abbreviations and Definitions

Abbreviations and definitions used throughout FSA FLP are in 7 CFR 761.2. This rule adds abbreviations and definitions to that part that will be used for both the direct and guaranteed loans made through the CL Program.

FSA will add abbreviations for "Conservation Loan" and "Natural Resources and Conservation Service." These abbreviations will be used frequently and will allow for consistency throughout regulations and between the direct and guaranteed loan programs.

Section 304 of the CONACT specifies the following definitions:

(1) "Qualified conservation loan" means "a loan, the proceeds of which are used to cover the costs to the borrower of carrying out a qualified conservation project."

(2) "Qualified conservation project" means "conservation measures that address provisions of a conservation plan of the eligible borrower."

(3) "Conservation plan" means

a plan, approved by the Secretary, that, for a farming or ranching operation, identifies the conservation activities that will be addressed with loan funds provided under this section, including:

(A) The installation of conservation structures to address soil, water, and related resources;

(B) The establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

(C) The installation of water conservation measures;

(D) The installation of waste management systems;

(E) The establishment or improvement of permanent pasture;

(F) Compliance with section 1212 of the Food Security Act of 1985; and

(G) Other purposes consistent with the plan, including the adoption of any other

emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

FSA is adding definitions of "qualified conservation loan" and "qualified conservation project" into the regulations in § 761.2(b) with minor, nonsubstantive wording changes for consistency with the regulation. The defined terms will become "conservation loan" and "conservation project".

FSA, in coordination with NRCS, is also adopting a more technically adequate definition of "conservation plan" to mean:

an NRCS-approved written record of the land user's decisions and supporting information, for treatment of a land unit or water as a result of the planning process, that meets NRCS Field Office Technical Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic and social considerations. The conservation plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes advantage of opportunities at a conservation management system level. This definition only applies to the direct loans and guaranteed loans for the Conservation Loan Program.

This definition of conservation plan provides consistency between FSA and NRCS procedures. FSA considers consistency especially important due to the statutory role that conservation plans play in eligibility for the CL Program.

FSA is revising the current definition for "graduation." The change to the "graduation" definition of adding the words "except for Conservation Loans" is necessary because the CL Program does not include graduation provisions. Section 304 of the CONACT specifically states that section 333(1) and (3) graduation requirements do not apply.

FSA is revising the definitions for "beginning farmer" and "program loan" to add "CL" in the loan types listed in the definitions.

FSA is adding the definition for "streamlined conservation loan." The definition is necessary because FSA will reduce paperwork requirements for applicants meeting certain criteria as discussed below.

Loan Limitations

FSA is amending 7 CFR 761.8 to specify that the existing loan limits will apply to both the direct and guaranteed loans made through the CL Program. Direct and guaranteed CL limits will count toward both the individual and combined real estate (Subtitle A of the CONACT) loan program limits previously established and specified in the regulation based on section 305 of the CONACT. That section limits direct CLs under section 304 to the smaller of the value of the security or $300,000. Guaranteed CLs also are subject to the existing combined guaranteed loan limit of $700,000 (adjusted by inflation) under section 305.

Farm Assessment Requirements

Periodically FSA FLP assesses each direct borrower's farming operation to determine financial condition, organizational structure, management strengths, credit counseling and training needs, and the appropriate level of oversight. This assessment is completed with the borrower to develop a plan to enhance the borrower's ability to progress in management skills financially to the point that the borrower is able to graduate from FSA and secure commercial credit. Section 761.103 specifies key factors that must be evaluated, at a minimum, for each operation. FSA is amending § 761.103 to provide that, for the applicants who have demonstrated the ability to meet certain requirements, FSA will not require historical performance and supervisor plans as part of the application process that are standard to other FLP loan applications. These applicants will be required to have a debt to asset ratio of 40 percent or less, a net worth of 3 times the loan amount, and a Fair Isaac Corporation (known as FICO) score of 700 or more. FSA believes that CL borrowers who met these requirements have demonstrated a high level of management skills and financial security. All CL Program borrowers would still be required to provide a current balance sheet annually along with income tax records, which would enable FSA to complete an abbreviated assessment. Any negative trends noted between balance sheets must be evaluated and addressed in the assessment.

FSA is requiring that if a CL borrower becomes financially distressed, delinquent, or receives any servicing options available in 7 CFR part 766, then all elements of the assessment must be included and addressed even if the loan was initially made under the reduced application exemption. This is necessary to fully assess the problem and correct any delinquency.

Year-End Analysis

Since certain CL Program applicants provide reduced documentation for loan approval, FSA believes it would be inconsistent to require significant additional information for routine monitoring of the borrower's progress. Therefore, FSA is amending § 761.105 to exempt certain CL Program borrowers from a year-end analysis requirement. Borrowers that qualify for reduced documentation CLs will still be required to submit a current balance sheet annually with income tax records to facilitate FSA's loan monitoring process.

General Administrative Changes

As discussed above, FSA is incorporating the CL Program into the existing FLP regulations in 7 CFR part 761. Specifically, FSA is making the following changes to accommodate the addition of the new CL Program into the regulations:

(1) In § 761.201 adding CL to the list of loans for allocation of funds;

(2) In § 761.202 adding CL to the list of loans in the timing of allocations;

(3) In § 761.204 adding CL to the list of loans in the methods of allocating funds to FSA State offices;

(4) In § 761.205 adding CL to the list of loans for computing the formula allocation; CLs will be treated like Farm Ownership (FO) loans rather than OLs for formula allocation purposes since they are real estate (Subtitle A) loans;

(5) In § 761.206 adding CL to the list of loans for pooling of unobligated funds allocated to State Offices; and

(6) In § 761.208 adding CL to the list of loan types that will receive target participation rates for socially disadvantaged groups in accordance with section 355 of the CONACT.

Section 304 of the CONACT specifies that in making or guaranteeing CLs, the following categories will be given funding priority (in addition to the target participation rates for socially disadvantaged farmers that are listed above in item 6):

(a) Beginning farmers and socially disadvantaged farmers;

(b) Owners or tenants who use the loans to convert to sustainable or organic agricultural production systems as defined in § 761.210; and

(c) Producers who use the loans to build conservation structures or establish conservation practices to comply with the highly erodible land conservation exemptions (section 1212 of the Food Security Act of 1985 (Pub. L. 99–198, commonly referred to as the 1985 Farm Bill, 16 U.S.C. 3812)).

Therefore, FSA is adding 7 CFR 761.210 to establish direct and guaranteed CL funds priority. Thirty-five percent of direct and guarantee CL funds will be targeted for these priorities in the first 6 months of each fiscal year. Once targets are removed from funding allocations, if a priority and a non-priority loan are approved on the same day, the priority request would always be funded before the non-

priority request. Additionally, approximately 15 percent of direct CL funds will be targeted for SDA participation rates in accordance with section 355 of the CONACT. Loans to SDA applicants will be funded first from funds targeted for SDA participation rates and when funds targeted for SDA participation are exhausted, then SDA loans will be funded from funds targeted for priority funding established by section 304 of the CONACT.

Guaranteed Loans; CL Program

FSA is making the following changes to accommodate the addition of the new CL Program into the guaranteed loan regulations:

(1) In § 762.101 adding CL to the list of types of guarantees available through FSA;

(2) In § 762.106 adding CL to the list of types of guarantees that can be made to qualify for Certified Lender status and to amend references that will change as a result of adding the CL Program into the regulations;

(3) In § 762.120 adding CL to the list of types of guarantees for applicant eligibility; and

(4) In § 762.128 adding CL to the list of types of guarantees that are subject to environmental requirements found in part 1940 subpart G;

To determine whether a conservation project qualifies for a loan guarantee, FSA will rely on NRCS approved conservation plans. NRCS provides national leadership in the conservation of soil, water, and related natural resources. An approved NRCS conservation plan will provide evidence to support the eligibility of the applicant's proposed conservation measure. Therefore, FSA is amending § 762.110, "Loan Application," to require applicants to obtain an approved NRCS conservation plan. The approved conservation plan must be included in a complete CL Program application package to apply for a loan guarantee.

Unlike traditional FSA loan programs, section 304 of the CONACT explicitly excludes the inability to obtain commercial credit as an eligibility requirement for the CL Program. FSA has reviewed the implications of extending credit to farmers with strong financial positions and examined the existing application requirements for guarantees as it relates to the assessment of an applicant's financial condition and ability to repay. Unlike applicants for FOs and OLs, some CL applicants will be very strong financially, with high debt service capacities and significantly more than adequate equity in assets to secure the requested loan. For CL applicants with exceptionally strong financial positions, it is not reasonable to require a lender to perform as intensive a cash flow analysis as is necessary for applicants with marginal financial positions. FSA is amending § 762.110 also to provide that certain CL applicants will be eligible for reduced application materials if the applicant is current on all payments to all creditors including FSA, has a debt-to-asset ratio of 40 percent or less, has a net worth of at least 3 times the loan amount, and has a minimum FICO credit score of 700. For entity applicants, because entity credit reports are not assigned FICO credit scores, FSA has determined that a majority of the individual entity members must have a personal FICO score of at least 700. Please note that the requirement for a majority of members to have a personal FICO credit score of at least 700 applies only to certain CLs. For CL guarantee applicants meeting all four of the above criteria, FSA is also amending § 762.110 to waive the cash flow budget requirement for a complete application. Since minimum standards to waive the cash flow budget requirement meet or exceed those of the private lending sector, these streamlined loan applications will minimize paperwork burden for loan guarantees, while only exposing FSA to a minimal risk of loss. The reduced paperwork requirement will not preclude the lender from requesting additional financial information, when necessary, as in their current non-guaranteed application procedures. These exempted application requirements are consistent with the direct CL Program, except that guaranteed CLs do not prohibit primary loan servicing within the past 5 years since such servicing is inapplicable to guaranteed loans. Other criteria were considered such as working capital and collateral position, but the criteria are most similar to practices used in the private lending sector when evaluating loan eligibility and FSA believes that these criteria will provide a strong and reliable indication of the likelihood that the loan will be repaid.

FSA is also amending § 762.125 to provide an exception to the requirement that the operation must project a feasible plan to be added for CL Program streamlined guarantees.

Since section 304 of the CONACT exempts CL applicants from the traditional test for credit eligibility relating to no credit elsewhere and graduation requirements, FSA is amending 7 CFR 762.110 to specify that the market placement program will not be applicable to the CL Program. The market placement program requires that when FSA determines that a direct applicant or borrower may qualify for guaranteed credit, the FSA may submit the applicant's financial information to one or more guaranteed lenders for their review and if the lender indicates interest in providing financing to the applicant or borrower through the guaranteed loan program, FSA would assist in completing the application for a guarantee.

Section 304 of the CONACT also explicitly exempts guaranteed CL applicants from the program eligibility requirement pertaining to the operation of a "family farm." Family farms are farms where the majority of the labor and management decisions are provided by the farm family as specified in 7 CFR 761.2. Therefore, FSA is amending 7 CFR 762.120, "Applicant Eligibility," to exempt CL applicants from both the test for credit and family farm eligibility requirements. This will facilitate timely implementation of conservation practices that would otherwise be postponed due to lack of monetary resources.

FSA is amending 7 CFR 762.121 to address the use of funds disbursed under the guaranteed CL Program. The list of conservation activities that may be included in a conservation plan is not intended to be all-inclusive, but is given as guidance to implement the CL Program. Uses are consistent for both the guaranteed and direct loan programs, except that refinancing is only allowed using guaranteed CL funds and only if the lender and the applicant can demonstrate the need to refinance. FSA will place no additional conservation project approval burden on applicants and will accept NRCS approval of projects in conservation plans as sufficient to ensure that the project meets the criteria and intent of the CL Program. CL guarantees may be used for any conservation project included in the NRCS approved conservation plan for an applicant determined eligible under guaranteed CL regulations.

FSA is amending § 762.124 to specify terms for CL guarantees. Terms will be limited to the life of the security pledged for the loan, but will not exceed 20 years from the date of the note. This is consistent with loan programs administered by FSA in the past that funded conservation practices and limited the loan term to 20 years. FSA believes this term will provide applicants adequate time to repay CLs.

CLs are exempted from the provision in § 762.125(a)(9) that prohibits loan funds from being used to support a non-eligible enterprise. Non-eligible enterprises are defined in § 761.2 as a business that produces exotic animals,

birds, and fish; produces non-farm animals, ordinarily used for pets, companionship or pleasure; markets non-farm goods; or processes farm products when the majority of the commodities are not produced by the farming operation. The intent of the CL Program, as specified in section 304 of the CONACT is to provide funding for qualified conservation projects, not to limit funding based on the particular type of enterprise. All conservation projects included in an approved conservation plan are expected to result in a net benefit to the environment. Projects that support an enterprise that FSA considers to be a non-eligible enterprise as defined in § 761.2 will be eligible for CL financing. FSA believes this exception is in keeping with the intent of the CL Program.

FSA will guarantee 75 percent of an approved CL. Other FSA guarantees cover up to 95 percent, but section 304 of the CONACT specifically limits the CL guarantee to 75 percent. While the CONACT limits guarantee of the principal amount of CL, FSA also will apply the 75 percent limit to loan losses from interest, advances, and recapture debt consistent with its treatment of other FLP guaranteed loan maximum losses. FSA is making amendments to §§ 762.129 and 762.130 to specify the 75 percent guarantee accordingly.

FSA will use existing guaranteed loan servicing procedures for CLs. Existing servicing procedures provide lenders with servicing tools beyond what is available on their non-guaranteed loans. The existing servicing tools have proven to be effective in allowing lenders to assist their customers and in the overall success of the guaranteed loan portfolio.

FSA is amending § 762.145 to:

(1) Require that when the lender requests restructuring options, the lender must certify that the CL borrower is in compliance with the conservation plan. Conservation plans are directly tied to eligibility for the CL Program, therefore, eligibility for servicing options should be directly tied to continuing compliance with the conservation plan.

(2) Specify that terms for restructuring guaranteed CLs cannot exceed 20 years from the date of the original note.

FSA is also amending §§ 762.147 and 762.148 to update existing citations.

Direct CL Program

FSA is changing the following to accommodate the addition of the new CL Program into the direct loan regulations:

(1) In § 764.1, adding CL to the list of types of direct loans available through FSA; and

(2) In §§ 764.102 and 764.103, amending references that change as a result of adding the CL Program into the regulations.

As with the CL guarantee, to determine whether a conservation project qualifies for a CL direct loan, FSA will rely on the expertise of NRCS as related to conservation practices, and ultimately, conservation plans. An approved NRCS conservation plan will provide ample evidence to support the eligibility of the applicant's proposed conservation measure. Therefore, FSA is amending § 764.51, "Loan Application," to require CL applicants to obtain an NRCS-approved conservation plan. The approved conservation plan must be included in a complete CL application package.

As explained above, section 304 of the CONACT explicitly excluded the inability to obtain commercial credit as an eligibility requirement for the CL program. FSA has reviewed the implications of extending credit to farmers with strong financial positions and examined the existing application requirements for FSA's other direct loan programs as it relates to the assessment of an applicant's financial condition and ability to repay. FSA is amending § 764.51 to provide that CL applicants do not have to submit documentation of the inability to obtain sufficient credit elsewhere at reasonable rates and terms. Unlike applicants for FSA other traditional direct loan programs, some CL applicants will be very strong financially, with high debt service capacities and significantly more than adequate equity in assets to secure the loan requested. For CL applicants with exceptionally strong financial positions, FSA will significantly reduce the paperwork required of these applicants. FSA is amending § 764.51 to provide that certain CL applicants will be eligible for reduced application requirements if the applicant is current on all payments to all creditors including FSA, has not received primary loan servicing on any FLP debt within the past 5 years, has a debt-to-asset ratio of 40 percent or less, has a net worth of at least 3 times the loan amount, and has a minimum FICO credit score of 700. For entity applicants, because entity credit reports are not assigned FICO credit scores, FSA has determined that a majority of the individual entity members must have a personal FICO score of at least 700. Please note that the requirement for a majority of members to have a personal FICO credit score of at least 700 applies only to loans granted to those who would be exempt from certain application requirements common to other loans. Other criteria were considered such as working capital and collateral position, but these criteria, which indicate a solid past history of debt repayment and the debt to asset ratio, net worth requirement, and minimum credit score, are most similar to practices used in the private lending sector when evaluating loan eligibility and will provide a strong and reliable indication of the likelihood that the loan will be repaid.

FSA is also amending 7 CFR 764.53, "Processing the Complete Application," to specify that the market placement program requirements will not be applicable to the CL program as discussed above.

Section 304 of the CONACT explicitly exempts the CL Program direct loans from the program eligibility requirement pertaining to their inability to obtain credit from conventional sources under section 333 and did not require operation of a family farm as under section 302(a)(3). Under regulations applicable to other FSA FLP, loan assistance is limited to owner-operators or tenant-operators of family farms who temporarily lack the financial resources to obtain conventional credit at reasonable rate and terms. The exemption for CLs allows operators outside the scope of a family farm operation with financial strength to obtain credit from other lenders, an additional way to fund conservation projects. These changes benefit the environment and support existing and new sustainable and organic food production systems within the United States. Therefore, FSA is amending 7 CFR 764.101, "General Eligibility Requirements," to exempt CL applicants from those requirements. FSA is also adding § 764.232 to limit CL eligibility to applicants meeting the eligibility requirements as specified in 7 CFR 764.101 with the same exceptions.

For FLP, as specified in 7 CFR 764.103(e), FSA generally requires a lien on all assets, valued at more than $5,000, that are not essential to the farming operation and not being converted to cash to reduce the loan amount. Currently, downpayment loans and youth loans are exempt from the lien requirement. CL Program direct loan applicants will also be exempt from the lien requirement because of their expected stronger financial condition as compared to other FLP borrowers. Therefore, FSA is amending 7 CFR 764.103(e) to specify that the lien requirement and requirement to convert assets to cash do not apply to applicants for CL Program direct loans.

FSA is adding new subpart F, "Conservation Loan Program," which

will include §§ 764.231 through 764.235. Section 764.231 specifies the use of funds disbursed under the direct CL Program. The list of conservation activities that may be included in a conservation plan is not intended to be all inclusive, but is given as guidance to implement the CL Program. Uses will be consistent with the CL guarantee program except the direct CL Program will not have provisions to provide for refinancing debt.

Limitations

FSA is adding § 764.233, "Limitations," to require applicants to comply with all limitations specified for direct program loans in § 764.102 except the prohibition that limits the use of loan funds to establish or support a non-eligible enterprise. As stated above for guaranteed loans, this exception is in keeping with the intent of the CL Program.

Section 764.233, also requires that any duplicative financial assistance provided for the same purpose from another source will be applied to the borrower's CL in accordance with § 765.152. This will provide a mechanism for FSA to provide funds "up front" for the construction of conservation projects and be able to collect any funds provided from other sources after construction or implementation is completed.

Rates and Terms

FSA is adding § 764.234 to specify rates and terms for direct CLs. The interest rate will be the same as FSA's direct FO rate in accordance with section 307 of the CONACT. Loan rates are available at all FSA offices and on the FSA Web site. The interest rate will be at the lower of the rate in effect at the time of loan approval or at loan closing.

Direct CL terms will be limited to the life of the security pledged for the loan, but will not exceed 7 years for chattel only loans and 20 years from the date of the note for other CLs. This is consistent with loan programs administered by FSA in the past that funded conservation practices and were limited the loan term to 20 years. FSA believes this term provides applicants adequate time to repay CLs.

Security Requirements

Section 764.235 is added to provide that direct CLs will be secured in accordance with the requirements specified in §§ 764.103–764.106, which is consistent with direct FO loans. FSA is adding security requirements and order of priority regulations to allow flexibility in securing direct CLs when NRCS-approved conservation practices are planned on real estate that is not owned by the applicant, or when the real estate is owned by the applicant, but taking a lien might impact the producer's normal course of business. First priority will be to take a lien on any real estate, if available. FSA is not requiring a lien be taken on the real estate on which the project is being completed, but will accept a lien on any real estate that is adequate to fulfill security requirements specified in §§ 764.103–764.106. In cases where no real estate security is available, chattels may be used to secure direct CLs, provided that the chattels are determined adequate and acceptable to FSA. To assure that such loans are adequately secured until paid, loans secured by chattel property may not exceed a 7 year term.

There is no graduation requirement for CL in the direct loan servicing because the 2008 Farm Bill exempts the CL Program from the test for credit requirement and graduation requirements. Graduation, as defined in 7 CFR 761.2, means payment in full of all direct FLP loans made for operating, real estate, or both purposes by refinancing with other credit sources either with or without a FSA guarantee. Therefore, FSA is amending §§ 765.101, 765.205, 765.206, 765.207, 765.253, and 765.351 to provide that CLs are not subject to graduation requirements.

FSA is amending § 766.107 to add CL to the list of FSA loans that can be rescheduled and to provide that the maximum term for servicing actions will be 20 years from the date of the original date instrument because the maximum term of any CL is 20 years.

FSA is amending § 766.108 to add CL to the list of FSA loans that can be reamortized and to provide that the maximum term for servicing actions will be 20 years from the date of the original debt instrument because the maximum term of any CL is 20 years.

Notice and Comment

In general, the Administrative Procedures Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. Such notice is not required when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

Conservation of natural resources, including soil, air and water, is a high priority for this Administration. There is strong interest and participation from farmers in programs that support and encourage conservation practices. Conservation activities help to maintain or restore the productive capacity of working agricultural lands, preserve or restore habitat for threatened and endangered species, preserve or restore habitat for game birds and sports fish, increase the availability and accessibility of outdoor recreational activities, increase carbon sequestration reducing the impacts of global warming, and reduce the agricultural run-off that threatens the health of the Nation's lakes, bays, and waterways; including the Chesapeake Bay, Mississippi Gulf, and Great Lakes. New conservation initiatives, including Presidential initiatives such as "A 21st Century Strategy for America's Great Outdoors," are being developed, placing greater emphasis on conservation measures; and highlighting that such measures are clearly in the public interest.

Many farmers who need and want to implement conservation measures on their land, do not have the "up front" funds available to implement these practices. This is particularly true for farmers in the livestock sector who are experiencing low profitability, but may have the most critical need to implement conservation practices due to increasing pressure to minimize or eliminate: (1) Surface water quality deterioration from spills and manure runoff; (2) surface water quantity being depleted by larger operations; and (3) odor nuisance from large barns and manure storage.

Many USDA conservation programs, such as the Environmental Quality Incentives Program (EQIP) and the Conservation Reserve Enhancement Program (CREP), provide only cost-share assistance, which is generally 50 to 90 percent of the cost to implement the conservation practice. Farmers and ranchers are required to complete the practice and provide receipts prior to receiving the cost-share reimbursement. While these conservation projects are environmentally valuable, they may contribute very little to the economic productivity of the farming operation providing little incentive for private sector institutions to provide financing. This often means that implementation of environmentally vital conservation measures must be postponed because "up front" capital is not available to the farmer.

Accordingly, FSA finds that good cause exists to publish this rule as an interim rule, effective immediately.

Advance solicitation of comments for this rulemaking would be impractical and contrary to the public interest, as it would delay implementation of conservation projects that are critical to accomplishment of the Administration and Congress' shared conservation objectives. By issuing these regulations as an interim rule, FSA still requests comments and will consider them in the development of the final rule.

Executive Order 12866

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

Summary of Economic Impacts

The CL Program provides eligibility and servicing options to participants in certain conservation activities through FSA direct and guaranteed loan programs. More specifically, a direct or guaranteed FSA loan can be used to help fund any approved NRCS conservation plan, even if the project involves a non-eligible enterprise as defined by 7 CFR 761.2. This approach encourages the adoption of conservation practices that provide the maximum benefit to society, as discussed below. Because it is voluntary, the program will not impose any unnecessary burden on producers.

The CL Program is expected to generate $14.5 million in annual direct loan obligations and $11.9 million in annual guaranteed obligations, much of which will be used to fund the producer's share of NRCS cost-share projects. Lower interest rates and easier loan terms will result in greater demand for NRCS cost-share projects. With greater demand, it is expected that NRCS will be able to allocate limited funds among projects that would have greater environmental benefits to society. If the CL Program results in a 5 percent increase in benefits, total annual benefits to society would increase by $1.41 million.

Demand for CL funds is not expected to be limited to just NRCS cost-share projects. For example, a producer may use the CL Program without cost-share in circumstances where delays in implementation of conservation practices would risk loss of USDA benefits or constrain farm production. The CL Program is expected to encourage the implementation of conservation practices beyond what can be funded using available NRCS cost-share funds.

Environmental Review

The requirements found in 7 CFR part 1940, subpart G, must be met for the CL program consistent with the existing direct and guaranteed loan regulations.

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule preempts State and local laws and regulations that are in conflict with this rule. Before any judicial action may be brought concerning the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

The policies in this rule would not have any substantial direct effect on States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government. Nor would 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 would not have tribal implications that preempt tribal law.

USDA will undertake, within 6 months after this rule becomes effective, a series of regulation Tribal consultation sessions to gain input by Tribal officials concerning the impact of this rule on Tribal governments, communities, and individuals. These sessions will establish a baseline of consultation for future actions, should any become necessary, regarding this rule. Reports from these sessions for consultation will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal leaders and their representatives concerning ways to improve this rule in Indian country.

Unfunded Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) for State, local, or tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Programs

The title and number of the Federal assistance programs in the Catalog of Federal Domestic Assistance to which this rule would apply are:

10.099—Conservation Loans.
10.404—Emergency Loans.
10.406—Farm Operating Loans.
10.407—Farm Ownership Loans.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 as specified in 44 U.S.C. 3507(j), all the following information collection requests have been submitted for emergency approval to the Office of Management and Budget (OMB). FSA obtained a 6-month OMB approval in order to require persons to complete the information collection activities for the CL Program.

FSA still plans to obtain the 3-year approval to continue the information collection so FSA is requesting comments from interested individuals and organizations on the CL Program information collection activities and changes in the information collection activities related to the regulatory changes in this rule. In all of these new information collection requests, FSA is inserting the CL provisions into the existing regulations to provide loans to the borrowers who are eligible to cover the costs of carrying out the qualified conservation project.

The approved information collection request will be incorporated into the existing approved information collection requests (of the same titles) that will be up for a renewal this year. Due to the differences in expected applications for direct loans versus guaranteed loans, and the differences in the number of individuals required to submit the information (applicant versus both lender and applicant), even though the information collections are to implement the CL Program, the number of respondents varies for each of the information collection requests described below.

Title: Farm Loan Programs; General Program Administration.

OMB Control Number: 0560–New.

Type of Request: New Collection.

Abstract: This information collection, is required to support the regulation

changes in CFR 761, "Farm Loan Programs; General Program Administration," that includes the new CL Program in both making and servicing all FLP loans and guarantees. Information collections established by the regulation are necessary to ensure that program applicants and participants meet statutory eligibility requirements, loan funds are used for authorized purposes, and the Government's interest in security is adequately protected. Specific information collection requirements include financial information in the form of a balance sheet and cash flow projections used in loan making and servicing decisions; information needed to establish joint bank accounts in which loan funds, proceeds derived from the sale of loan security or insurance proceeds may be deposited; collateral pledges from financial institutions when the balance of a supervised bank account will exceed $100,000; and documentation that construction plans and specifications comply with State and local building standards.

Estimate of Burden: Public reporting for this collection of information is estimated to average 75 minutes per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 3,038.

Estimated Average Number of Responses per Respondent: 2.

Estimated Total Annual Number of Responses: 3,038.

Estimated Total Annual Burden on Respondents: 3,767 hours.

Once this information collection is approved, it will be incorporated into existing collection package 0560–0238.

Title: Guaranteed Farm Loans.

OMB Control Number: 0560–New.

Type of Request: New Collection.

Abstract: This information collection is required to support the regulation changes in 7 CFR part 762, "Guaranteed Farm Loans," which establishes the requirement for loan making and loan servicing of FSA's new CL Program guaranteed loans. Information collections established in the regulation are necessary for FSA to evaluate the lender's request for guarantee including eligibility, loan repayment, if security requirements can be met, monitor and account for security, liquidation, and lender's loss claims.

Estimate of Burden: Public reporting for this collection of information is estimated to average 48 minutes per response.

Type of Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 5,063.

Estimated Average Number of Responses per Respondent: 1.3.

Estimated Total Annual Number of Responses: 5,756.

Estimated Total Annual Burden on Respondents: 5,357 hours.

Once this information collection is approved, it will be incorporated into existing collection package 0560–0155.

Title: Direct Loan Making.

OMB Control Number: 0560–New.

Type of Request: New Collection.

Abstract: This information collection is required to support the regulation changes in 7 CFR part 764, "Direct Loan Making," which establishes the requirements for most of FSA's direct loan programs including the new CL Program. Information collections established in the regulation are necessary for FSA to evaluate the loan applicant's request and determine if eligibility, loan repayment, and security requirements can be met.

Estimate of Burden: Public reporting for this collection of information is estimated to average 26 minutes per response.

Type of Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 23,821.

Estimated Average Number of Responses per Respondent: 1.05.

Estimated Total Annual Number of Responses: 29,992 hours.

Estimated Total Annual Burden on Respondents: 15,309 hours.

Once this information collection is approved, it will be incorporated into existing collection package 0560–0237.

Title: Direct Loan Servicing—Regular.

OMB Control Number: 0560–New.

Type of Request: New Collection.

Abstract: This information collection is required to support the regulation changes in 7 CFR part 765, "Direct Loan Servicing—Regular," which establishes the requirements related to routine servicing actions associated with direct loans including the new CL Program. Information collections established in the regulation are necessary for FSA to monitor and account for loan security, including proceeds derived from the sale of security, and to process a borrower's requests for subordination or partial release of security.

Estimate of Burden: Public reporting for this collection of information is estimated to average 29 minutes per response.

Type of Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 1,817.

Estimated Average Number of Responses per Respondent: 1.48.

Estimated Total Annual Number of Responses: 1669.

Estimated Total Annual Burden on Respondents: 594 hours.

Once this information collection is approved, it will be incorporated into existing collection package 0560–0236.

Title: Direct Loan Servicing—Special.

OMB Control Number: 0560–New.

Type of Request: New Collection.

Abstract: This information collection is required to support the regulation changes in 7 CFR part 766, "Direct Loan Servicing—Special," which establishes the requirements for servicing financially distressed and delinquent direct loan borrowers. The information collections established in the regulation are necessary for FSA to evaluate a borrower's request for disaster set-aside, primary loan servicing (including reamortization, rescheduling, deferral, write down, and conservation contracts), and homestead protection.

Estimate of Burden: Public reporting for this collection of information is estimated to average 31 minutes per response.

Type of Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 576.

Estimated Average Number of Responses per Respondent: 1.

Estimated Total Annual Number of Responses: 576.

Estimated Total Annual Burden on Respondents: 216 hours.

Once this information collection is approved, it will be incorporated into existing collections package 0560–0233.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of FSA's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden 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.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

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 761

Accounting, Loan programs agriculture, Rural areas.

7 CFR Part 762

Agriculture, Banks, banking, Credit, Loan programs—agriculture.

7 CFR Part 764

Agriculture, Disaster assistance, Loan programs—agriculture.

7 CFR Part 765

Agriculture, Agricultural commodities, Credit, Livestock, Loan programs—agriculture.

7 CFR Part 766

Agriculture, Agricultural commodities, Credit, Livestock, Loan programs—agriculture.

■ For reasons discussed above, this rule amends 7 CFR chapter VII as follows:

PART 761—FARM LOAN PROGRAMS; GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 2. Amend § 761.2 as follows:

■ a. In paragraph (a), add abbreviations, in alphabetical order, for "CL" and "NRCS" to read as set forth below;

■ b. In paragraph (b), amend paragraph (1) of the definition of "beginning farmer" by removing the words "OL or FO loan" and adding, in their place, the words "CL, FO, or OL";

■ c. In paragraph (b), add definitions, in alphabetical order, for "conservation loan", "conservation plan", "conservation practice", "conservation project", and "streamlined conservation loan" and revise the definition of "graduation" to read as set forth below; and

■ d. In paragraph (b), amend the definition of "program loans" by adding the acronym and punctuation "CL," immediately before the acronym "FO".

§ 761.2 Abbreviations and definitions.

* * * * *

(a) * * *

CL Conservation Loan.

* * * * *

NRCS National Resources and Conservation Service, USDA.

* * * * *

(b) * * *

* * * * *

Conservation loan means a loan made to eligible applicants to cover the costs to the applicant of carrying out a qualified conservation project.

Conservation plan means an NRCS-approved written record of the land user's decisions and supporting information, for treatment of a land unit or water as a result of the planning process, that meets NRCS Field Office Technical Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic and social considerations. The conservation plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes advantage of opportunities at a conservation management system level. This definition only applies to the direct loans and guaranteed loans for the Conservation Loan Program.

Conservation practice means a specific treatment that is planned and applied according to NRCS standards and specifications as a part of a resource management system for land, water, and related resources.

Conservation project means conservation measures that address provisions of a conservation plan.

* * * * *

Graduation means the payment in full of all direct FLP loans, except for CLs, made for operating, real estate, or both purposes by refinancing with other credit sources either with or without an Agency guarantee.

* * * * *

Streamlined Conservation Loan means a direct or guaranteed CL made to eligible applicants based on reduced documentation.

* * * * *

■ 3. Revise § 761.8 paragraphs (a)(1) introductory text, (a)(1)(iii), (a)(3), (a)(4), and (a)(6) to read as follows:

§ 761.8 Loan limitations.

(a) * * *

(1) Farm Ownership, Downpayment loans, Conservation loans, and Soil and Water loans:

* * * * *

(iii) Any combination of a direct Farm Ownership loan, direct Conservation loan, direct Soil and Water loan, guaranteed Farm Ownership loan, guaranteed Conservation loan, and guaranteed Soil and Water loan-$700,000 (for fiscal year 2000 and increased each fiscal year in accordance with paragraph (b) of this section);

* * * * *

(3) Any combination of guaranteed Farm Ownership loan, guaranteed Conservation loan, guaranteed Soil and Water loan, and guaranteed Operating loan-$700,000 (for fiscal year 2000 and increased each fiscal year in accordance with paragraph (b) of this section);

(4) Any combination of direct Farm Ownership loan, direct Conservation loan, direct Soil and Water loan, direct Operating loan, guaranteed Farm Ownership loan, guaranteed Conservation loan, guaranteed Soil and Water loan, and guaranteed Operating loan-the amount in paragraph (a)(1)(ii) of this section plus $300,000;

* * * * *

(6) Any combination of direct Farm Ownership loan, direct Conservation loan, direct Soil and Water loan, direct Operating loan, guaranteed Farm Ownership, guaranteed Conservation loan, guaranteed Soil and Water loan, guaranteed Operating loan, and Emergency loan-the amount in paragraph (a)(1)(ii) of this section plus $800,000.

* * * * *

■ 4. Amend § 761.103 as follows:

■ a. In paragraphs (b)(6), (b)(8), and (b)(9) add the words and punctuation ", except for streamlined CL" immediately before the semicolon in each paragraph;

■ b. In paragraph (c), second sentence, remove the words and punctuation ", a loan evaluation,";

■ c. Revise paragraph (d) to read as set forth below; and

■ d. Add paragraph (e) to read as set forth below.

§ 761.103 Farm assessment.

* * * * *

(d) The Agency reviews the assessment to determine a borrower's progress at least annually. The review will be in the form of an office visit, field visit, letter, phone conversation, or year-end analysis, as determined by the Agency. For streamlined CLs, the borrower must provide a current balance sheet and income tax records. Any negative trends noted between the previous years' and the current years'

information must be evaluated and addressed in the assessment of the streamlined CL borrower.

(e) If a CL borrower becomes financially distressed, delinquent, or receives any servicing options available under part 766 of this chapter, all elements of the assessment in paragraph (b) of this section must be addressed.

§ 761.105 [Amended]

■ 5. Amend § 761.105 paragraph (a)(1) by adding the words "except for streamlined CLs" immediately after the words "direct loan".

§ 761.201 [Amended]

■ 6. Amend § 761.201 paragraph (a)(1) by adding the acronym and punctuation ", CL," immediately after the acronym "FO".

§ 761.202 [Amended]

■ 7. Amend § 761.202, in the first sentence, by adding the acronym and punctuation ", CL," immediately after the acronym "FO".

§ 761.204 [Amended]

■ 8. Amend § 761.204, introductory text, by adding the acronym and punctuation ", CL," immediately after the acronym "FO".

§ 761.205 [Amended]

■ 9. Amend § 761.205 as follows:

■ a. In paragraph (a) introductory text by adding the acronym and punctuation ", CL," immediately after the acronym "FO"; and;

■ b. In paragraph (b)(1) in the table by removing the words "FO and" each time it appears and adding, in its place, the words "FO, CL, and" and by removing the words "FO loans" each time they appear and adding in their place the words "FOs and CLs".

§ 761.206 [Amended]

■ 10. Amend § 761.206, first sentence, by adding the acronym and punctuation ", CL," immediately after the acronym "FO".

§ 761.208 [Amended]

■ 11. Amend § 761.208 as follows:

■ a. In paragraph (a)(1) by adding the acronym and punctuation ", CL," immediately after the acronym "FO" and

■ b. In paragraph (b) introductory text by adding the words and punctuation "and CL," immediately after the acronym "FO" each time it appears.

§ 761.210 [Redesignated as § 761.211]

■ 12. Redesignate § 761.210 as § 761.211.

■ 13. Add § 761.210 to read as follows:

§ 761.210 CL funds.

(a) The following applicants and conservation projects will receive priority for CL funding:

(1) Beginning farmer or socially disadvantaged farmer,

(2) An applicant who will use the loan funds to convert to a sustainable or organic agriculture production system as evidenced by one of the following:

(i) A conservation plan that states the applicant is moving toward a sustainable or organic production system, or

(ii) An organic plan, approved by a certified agent and the State organic certification program, or

(iii) A grant awarded by the Sustainable Agriculture Research and Education (SARE) program of the National Institute of Food and Agriculture, USDA.

(3) An applicant who will use the loan funds to build conservation structures or establish conservation practices to comply with 16 U.S.C. 3812 (section 1212 of the Food Security Act of 1985) for highly erodible land.

(b) [Reserved]

PART 762—GUARANTEED FARM LOANS

■ 14. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 15. In § 762.101, revise the first sentence in paragraph (a) to read as follows:

§ 762.101 Introduction.

(a) * * * This subpart contains regulations governing Operating loans, Farm Ownership loans, and Conservation loans guaranteed by the Agency. * * *

* * * * *

§ 762.106 [Amended]

■ 16. Amend § 762.106 as follows:

■ a. In paragraph (b)(4) by removing the words "or Soil and Water (SW)" and by adding, in its place the words "CL, or SW";

■ b. In paragraph (c)(3) by adding the acronym and punctuation "CL," immediately after the acronym "FO,"; and

■ c. In paragraph (g)(2)(ix) by adding at the end the reference "and (c)(8)".

■ 17. Amend § 762.110 as follows:

■ a. Revise paragraphs (a)(1)(iv) and (a)(1)(vi), and add paragraphs (a)(1)(vii) and (a)(1)(viii), to read as set forth below;

■ b. Revise paragraph (b) introductory text to read as set forth below;

■ c. Revise paragraph (c)(2), redesignate paragraph (c)(3) as paragraph (c)(5), and add paragraphs (c)(3) and (c)(4) to read as set forth below;

■ d. Redesignate paragraphs (d) through (g) as (e) through (h);

■ e. Add paragraph (d) to read as set forth below; and

■ f. In newly redesignated paragraph (h), first sentence, remove the word "When" and add, in its place, the words "Except for CL guarantees, when".

§ 762.110 Loan application.

(a) * * *

(1) * * *

(iv) Cash flow budget, unless waived when conditions in paragraph (d) of this section are met;

* * * * *

(vi) A plan for servicing the loan;

(vii) For CL guarantees, a copy of the conservation plan;

(viii) To request consideration for priority funding for CL guarantees, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.

* * * * *

(b) *Loans over $125,000.* A complete application for loans over $125,000 will require items specified in paragraph (a) of this section, plus the following items unless waived when conditions in paragraph (d) of this section are met:

* * * * *

(c) * * *

(2) A loan narrative;

(3) For CL guarantees, a copy of the conservation plan;

(4) To request consideration for priority funding for CL guarantees, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.

* * * * *

(d) *Streamlined CL guarantee.* For CL guarantee applicants meeting all the following criteria, the cash flow budget requirement in this section will be waived:

(1) Be current on all payments to all creditors including the Agency (if currently an Agency borrower),

(2) Debt to asset ratio is 40 percent or less,

(3) Balance sheet indicates a net worth of 3 times the requested loan amount or greater, and

(4) FICO credit score is at least 700. For entity applicants, the FICO credit score of the majority of the individual members of the entity must be at least 700.

* * * * *

■ 18. Amend § 762.120 as follows:

■ a. Revise the introductory text to read as set forth below,

■ b. Add introductory text to paragraph (h) to read as set forth below,
■ c. Amend paragraph (k) introductory text by removing the word "Entity" and adding, in its place, the words "Except for CL, entity".
■ d. Redesignate paragraph (l) as paragraph (n), and
■ e. Add paragraphs (l) and (m) to read as set forth below:

§ 762.120 Applicant eligibility.

Unless otherwise provided, applicants must meet all of the following requirements to be eligible for a guaranteed OL, FO, or CL.

* * * * *

(h) *Test for credit.* Except for CL guarantees,

* * * * *

(l) *For CL entity applicants.* Entity applicants for CL guarantees must meet the following eligibility criteria:

(1) The majority interest holders of the entity must meet the requirements of paragraph (d), (f), and (g) of this section;

(2) The entity must be controlled by farmers engaged primarily and directly in farming or ranching in the United States after the loan is made;

(3) The entity members are not themselves entities; and

(4) The entity must be authorized to operate a farm in the State or States in which the farm is located.

(m) *For CL individual applicants.* Individual applicants for CL guarantees must be farmers or ranchers in the United States.

* * * * *

■ 19. Amend § 762.121 by redesignating paragraphs (c) and (d) as paragraphs (d) and (e) and adding paragraph (c) to read as follows:

§ 762.121 Loan purposes.

* * * * *

(c) *CL Purposes.* Loan funds disbursed under a CL guarantee may be used for any conservation activities included in a conservation plan including, but not limited to:

(1) The installation of conservation structures to address soil, water, and related resources;

(2) The establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

(3) The installation of water conservation measures;

(4) The installation of waste management systems;

(5) The establishment or improvement of permanent pasture;

(6) Other purposes including the adoption of any other emerging or existing conservation practices, techniques, or technologies; and

(7) Refinancing indebtedness incurred for any authorized CL purpose, when refinancing will result in additional conservation benefits.

* * * * *

§ 762.122 [Amended]

■ 20. Amend § 762.122(c) by removing the acronym "FO" and by adding, in its place, the words "FO or CL".
■ 21. Amend § 762.124 as follows:
■ a. Redesignate paragraphs (d) and (e) as paragraphs (e) and (f),
■ b. Add paragraph (d) to read as set forth below, and
■ c. In newly redesignated paragraph (e) introductory text, remove the words "FO or OL" and add, in its place, the words "FO, OL, or CL".

§ 762.124 Interest rates, terms, charges, and fees.

* * * * *

(d) *CL terms.* Each loan must be scheduled for repayment over a period not to exceed 20 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

* * * * *

■ 22. Amend § 762.125 as follows:
■ a. In paragraph (a), immediately following the heading, add introductory text to read as set forth below;
■ b. In paragraph (a)(2), remove the reference and words "as defined in § 762.102(b)";
■ c. In paragraph (a)(9), second sentence, remove the word "Guaranteed" and add in its place, the words "Except for CL, guaranteed"; and
■ d. In paragraph (b) add introductory text to read as set forth below.

§ 762.125 Financial feasibility.

(a) * * * Except for streamlined CL guarantees, the following requirements must be met and applications processed as specified in § 762.110(d):

* * * * *

(b) * * * Except for streamlined CL guarantees, the following requirements must be met and applications processed as specified in § 762.110(d):

* * * * *

§ 762.128 [Amended]

■ 23. Amend § 762.128, paragraph (a), first sentence, by removing the words "OL and FO" and adding in its place the words "OL, FO, and CL".

■ 24. Amend § 762.129 as follows:
■ a. In paragraph (a) first sentence by removing the word "The" and adding, in its place, the words "Except for CLs, the" and add a new sentence at the end as set forth below; and
■ b. In paragraph (c) by removing the word "All" and adding, in its place, the words "Except for CLs, all".

§ 762.129 Percent of guarantee and maximum loss.

(a) * * * For CLs, the percent of guarantee will be 75 percent.

* * * * *

■ 25. Revise § 762.130 by revising paragraph (a)(2)(ii) to read as follows:

§ 762.130 Loan approval and issuing the guarantee.

(a) * * *

(2) * * *

(ii) For PLP lenders, if the 14 day time frame is not met, the proposed guaranteed loan will automatically be approved, subject to funding, and receive an 80 or 95 percent guarantee for FO or OL loans, and 75 percent guarantee for CL, as appropriate.

* * * * *

■ 26. Amend § 762.145 as follows:
■ a. In paragraph (b)(2)(i) remove the reference and words "as defined in § 762.102(b)";
■ b. Add paragraphs (b)(10) and (c)(1)(iii) to read as set forth below; and
■ c. Revise paragraph (e)(5) to read as set forth below.

§ 762.145 Restructuring guaranteed loans.

* * * * *

(b) * * *

(10) For CL, the lender must certify that the borrower remains in compliance with the approved conservation plan.

(c) * * *

(1) * * *

(iii) CL will be amortized over the remaining term or rescheduled with an uneven payment schedule. The maturity date cannot exceed 20 years from the date of the original note.

* * * * *

(e) * * *

(5) The loan will be restructured with regular payments at terms no shorter than 5 years for a line of credit and OL term note; and no shorter than 20 years for FO and CL, unless required to be shorter by paragraphs (c)(1)(i) through (iii) of this section.

* * * * *

§ 762.147 [Amended]

■ 27. Amend § 762.147, paragraph (b)(1)(i)(A), last sentence, by removing the reference "§ 762.141(b)" and by adding, in its place, the reference "§ 762.142(b)".

§ 762.148 [Amended]

■ 28. Amend § 762.148, paragraph (d)(3), last sentence, by removing the

reference "§ 762.149(a)(vi)" and by adding, in its place, the reference "§ 762.149(i)(4)".

PART 764—DIRECT LOAN MAKING

■ 29. The authority citation for part 764 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 30. Amend § 764.1 by revising paragraphs (b)(2) and (b)(3), and adding paragraph (b)(4) to read as follows:

§ 764.1 Introduction.

* * * * *

(b) * * *

(2) OL, including Youth loans;

(3) EM; and

(4) CL.

■ 31. Amend § 764.51 as follows:

■ a. In paragraph (b) introductory text, remove the reference "(e) of this section" and adding, in its place, the reference "(f) of this section";

■ b. In paragraph (b)(6), remove the word "Documentation" and add, in its place, the words "Except for CL, documentation";

■ c. In paragraph (b)(13), at the end, remove the word "and";

■ d. Revise paragraph (b)(14) to read as set forth below;

■ e. Add paragraphs (b)(15) and (b)(16) to read as set forth below;

■ f. Redesignate paragraphs (d) and (e) as paragraphs (e) and (f); and

■ g. Add paragraph (d) to read as set forth below.

§ 764.51 Loan application.

* * * * *

(b) * * *

(6) Except for CL, documentation that the applicant and each member of an entity applicant cannot obtain sufficient credit elsewhere on reasonable rates and terms, including a loan guarantee to the Agency;

* * * * *

(14) For EM loans, a statement of loss or damage on the appropriate Agency form;

(15) For CL only, a conservation plan as defined in § 761.2 of this chapter; and

(16) For CL only, and if the applicant wishes to request consideration for priority funding, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.

* * * * *

(d) For a CL Program streamlined application, the applicant must meet all of the following:

(1) Be current on all payments to all creditors including the Agency (if currently an Agency borrower).

(2) Have not received primary loan servicing on any FLP debt within the past 5 years.

(3) Have a debt to asset ratio that is 40 percent or less.

(4) Have a balance sheet that indicates a net worth of 3 times the requested loan amount or greater.

(5) Have a FICO credit score from the Agency obtained credit report of at least 700. For entity applicants, the FICO credit score of the majority of the individual members of the entity must be at least 700.

(6) Submit the following items:

(i) Items specified in paragraphs (b)(1), (b)(2), (b)(3), (b)(7), (b)(11), (b)(15), and (b)(16) of this section,

(ii) A current financial statement less than 90 days old, and

(iii) Upon Agency request, other information specified in paragraph (b) of this section necessary to make a determination on the loan application.

* * * * *

■ 32. Revise § 764.53 paragraph (d) to read as follows:

§ 764.53 Processing the complete application.

* * * * *

(d) Except for CL requests, if based on the Agency's review of the application, it appears the applicant's credit needs could be met through the guaranteed loan program, the Agency will assist the applicant in securing guaranteed loan assistance under the market placement program as specified in § 762.110(h) of this chapter.

* * * * *

§ 764.101 [Amended]

■ 33. Amend § 764.101 as follows:

■ a. In paragraph (e) introductory text, first sentence, remove the word "The" and add, in its place, the words "Except for CL, the";

■ b. In paragraph (j) remove the reference "subpart J" and add, in its place, the reference "subpart K"; and

■ c. Add as introductory text in paragraph (k) the words and punctuation "Except for CL:".

§ 764.102 [Amended]

■ 34. Amend § 764.102 paragraph (a) by removing the reference "H of this part" and adding, in its place, the reference "I of this part".

§ 764.103 [Amended]

■ 35. Amend § 764.103 as follows:

■ a. In paragraphs (a) and (b) introductory text, first sentence, by removing the reference "H of this part" and adding, in its place, the reference "I of this part"; and

■ b. In paragraph (e), last sentence, by removing the words "loans and youth" and adding, in its place, the words "loans, conservation loans, or youth".

Subparts F Through J [Redesignated]

■ 36. Redesignate subparts F through J as subparts G through K and add new subpart F to read as follows:

Subpart F—Conservation Loan Program

Sec.

764.231 Conservation loan uses.
764.232 Eligibility requirements.
764.233 Limitations.
764.234 Rates and terms.
764.235 Security requirements.
764.236–764.250 [Reserved]

§ 764.231 Conservation loan uses.

(a) CL funds may be used for any conservation activities included in a conservation plan including, but not limited to:

(1) The installation of conservation structures to address soil, water, and related resources;

(2) The establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

(3) The installation of water conservation measures;

(4) The installation of waste management systems;

(5) The establishment or improvement of permanent pasture; and

(6) Other purposes including the adoption of any other emerging or existing conservation practices, techniques, or technologies.

(b) [Reserved]

§ 764.232 Eligibility requirements.

(a) The applicant:

(1) Must comply with general eligibility requirements specified in § 764.101 except paragraphs (e) and (k) of that section;

(2) And anyone who will sign the promissory note, must not have received debt forgiveness from the Agency on any direct or guaranteed loan; and

(3) Must be the owner-operator or tenant-operator of a farm and be engaged in agricultural production after the time of loan is closed. In the case of an entity:

(i) The entity is controlled by farmers engaged primarily and directly in farming in the United States;

(ii) The entity must be authorized to operate a farm in the State in which the farm is located.

(b) [Reserved]

§ 764.233 Limitations.

(a) The applicant must comply with the general limitations specified in

§ 764.102 except § 764.102(f), which does not apply to applicants for the CL Program.

(b) The applicant must agree to repay any duplicative financial benefits or assistance to CL.

§ 764.234 Rates and terms.

(a) *Rates.* The interest rate:

(1) Will be the Agency's Direct Farm Ownership rate, available in each Agency office.

(2) Charged will be the lower rate in effect either at the time of loan approval or loan closing.

(b) *Terms.* The following terms apply to CLs:

(1) The Agency schedules repayment of a CL based on the useful life of the security.

(2) The maximum term for loans secured by chattels only will not exceed 7 years from the date of the note.

(3) In no event will the term of the loan exceed 20 years from the date of the note.

§ 764.235 Security requirements.

(a) The loan must be secured:

(1) In accordance with requirements established in §§ 764.103 through 764.106; and

(2) In the order of priority as follows:

(i) By real estate, if available, and then

(ii) By chattels, if determined acceptable by the Agency.

(b) [Reserved]

§§ 764.236–764.250 [Reserved]

PART 765—DIRECT LOAN SERVICING—REGULAR

■ 37. The authority citation for part 765 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 38. In § 765.101, add paragraph (g) to read as follows:

§ 765.101 Borrower graduation requirements.

* * * * *

(g) CLs are not subject to graduation requirements under this part.

■ 39. In § 765.152, revise paragraph (b)(6) to read as follows:

§ 765.152 Types of payments.

* * * * *

(b) * * *

(6) Refunds of duplicate program benefits or assistance to be applied on CL or EM loans; or

* * * * *

§§ 765.205–765.207 and 765.253 [Amended]

■ 40. In addition to the amendment set forth above, in 7 CFR part 765, remove the word "graduate" and add, in its place, the words "graduate on any program except for CL" in the following places:

■ a. In § 765.205 paragraph (b)(6),

■ b. In § 765.206 paragraph (b)(5),

■ c. In § 765.207 paragraph (c), and

■ d. In § 765.253 paragraph (b).

§ 765.351 [Amended]

■ 41. Amend § 765.351, paragraph (a)(8), by removing the word "credit" and adding, in its place, the words "credit on any program except for CL".

PART 766—DIRECT LOAN SERVICING—SPECIAL

■ 42. The authority citation for part 766 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1981(d) and 1989.

■ 43. Amend § 766.107 as follows:

■ a. In paragraph (b) introductory text, add the acronym and punctuation "CL," immediately after the acronym "OL,"

■ b. Revise paragraph (c)(2) to read as set forth below, and

■ c. Add paragraphs (c)(3) and (c)(4) to read as set forth below.

§ 766.107 Consolidation and rescheduling.

* * * * *

(c) * * *

(2) Except for CL and RL loans, the repayment period cannot exceed 15 years from the date of the consolidation and rescheduling.

(3) The repayment schedule for RL loans may not exceed 7 years from the date of rescheduling.

(4) The repayment schedule for CLs may not exceed 20 years from the date of the original note or assumption agreement.

* * * * *

■ 44. Amend § 766.108 as follows:

■ a. In paragraph (a) introductory text, add the acronym and punctuation "CL," immediately after the acronym "RHF," and

■ b. Add paragraph (b)(2)(v) to read as set forth below.

§ 766.108 Reamortization.

* * * * *

(b) * * *

(2) * * *

(v) CLs may not exceed 20 years from the date of the original note or assumption agreement.

* * * * *

Signed in Washington, DC, August 31, 2010.

Jonathan W. Coppess,

Administrator, Farm Service Agency.

[FR Doc. 2010–22070 Filed 9–2–10; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. FDA–2010–N–0002]

New Animal Drugs; Change of Sponsor's Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Alpharma, Inc., to Alpharma LLC. The sponsor's mailing address will also be changed.

DATES: This rule is effective September 3, 2010.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8307, email: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., 440 Rte. 22, Bridgewater, NJ 08807 has informed FDA that it has changed its name and address to Alpharma LLC, 400 Crossing Blvd., Bridgewater, NJ 08807. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect this change.

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

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), revise the entry for "Alpharma Inc."; and in the table in paragraph (c)(2), revise the entry for "046573" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Alpharma LLC, 400 Crossing Blvd., Bridgewater, NJ 08807.	046573
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
046573	Alpharma LLC, 400 Crossing Blvd., Bridgewater, NJ 08807.
* * * * *	

Dated: August 31, 2010.

Elizabeth Rettie,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2010–22044 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

[Docket No. FDA–2010–N–0002]

New Animal Drugs; Change of Sponsor; Penicillin G Benzathine and Penicillin G Procaine Suspension; Penicillin G Procaine Aqueous Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for two new animal drug applications (NADAs) from G. C. Hanford Manufacturing Co. to Norbrook Laboratories, Ltd.

DATES: This rule is effective September 3, 2010.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8307, e-mail: *david.newkirk@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: G. C. Hanford Manufacturing Co., P.O. Box 1017, Syracuse, NY 13201, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 65–493 for Penicillin G Procaine Aqueous Suspension and NADA 65–500 for Penicillin G Benzathine and Penicillin G Procaine Suspension, to Norbrook Laboratories, Ltd., Station Works, Newry BT35 6JP, Northern Ireland. Accordingly, the agency is amending the regulations in 21 CFR 522.1696a and 522.1696b to reflect the transfer of ownership.

In addition, FDA has noticed that "G. C. Hanford" and "GTC Biotherapeutics, Inc." are not spelled correctly in the listing of sponsors of approved NADAs. At this time, the table in 21 CFR 510.600(c)(1) is amended. This action is being taken to improve the accuracy of the regulations.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. In § 510.600, in the table in paragraph (c)(1), in the entry for "G. C. Biotherapeutics, Inc.", remove "G. C." and in its place add "GTC"; and in the entry for "GTC Hanford Manufacturing Co.", remove "GTC" and in its place add "G. C.".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 4. In § 522.1696a, revise paragraphs (b)(1), (b)(2), (d)(2)(ii)(A), and (d)(2)(iii) to read as follows:

§ 522.1696a Penicillin G benzathine and penicillin G procaine suspension.

* * * * *

(b) * * *

(1) Nos. 000856, 049185, 055529, and 061623 for use as in paragraph (d)(1) of this section.

(2) Nos. 055529, 059130, and 061623 for use as in paragraphs (d)(2)(i), (d)(2)(ii)(A), and (d)(2)(iii) of this section.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(A) Treatment of bacterial pneumonia (*Streptococcus* spp., *Actinomyces pyogenes*, *Staphylococcus aureus*); upper respiratory infections such as rhinitis or pharyngitis (*A. pyogenes*); blackleg (*Clostridium chauvoei*).

* * * * *

(iii) *Limitations*. Limit treatment to two doses. Not for use within 30 days of slaughter. For Nos. 049185, 055529, 059130, and 061623: A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal.

■ 5. In § 522.1696b, revise paragraphs (b)(1), (b)(2), (d)(2)(i)(A), and (d)(2)(iii)(B) to read as follows:

§ 522.1696b Penicillin G procaine aqueous suspension.

* * * * *

(b) * * *

(1) Nos. 053501, 055529, and 059130 for use as in paragraph (d) of this section.

(2) No. 061623 for use as in paragraph (d)(2) of this section.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(A) For Nos. 053501, 055529, 059130, and 061623: Continue treatment at least 48 hours after symptoms disappear.

* * * * *

(iii) * * *

(B) For Nos. 055529 and 059130: Continue treatment at least 1 day after symptoms disappear (usually 2 or 3 days).

Dated: August 31, 2010.

Elizabeth Rettie,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2010–22042 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA–2010–N–0002]

Oral Dosage Form New Animal Drugs; Praziquantel and Pyrantel

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayer HealthCare LLC. The supplement provides for two new sizes of praziquantel and pyrantel pamoate tablets used in cats and kittens for the removal of various internal parasites and for a revised kitten age and weight restriction.

DATES: This rule is effective September 3, 2010.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, email: *melanie.berson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201, filed a supplement to NADA 141–008 for DRONTAL (praziquantel and pyrantel pamoate) Tablets used in cats and kittens for the removal of various internal parasites. The supplement provides for two new tablet sizes and for a revised kitten age and weight restriction. The supplemental NADA is approved as of June 15, 2010, and 21 CFR 520.1871 is amended to reflect the approval.

FDA has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. In § 520.1871, in paragraph (b)(1), remove "tablet" and in its place add "tablets"; and revise paragraphs (a)(1), (d)(1)(i), and (d)(1)(iii) to read as follows:

§ 520.1871 Praziquantel and pyrantel.

(a) * * *

(1) Each tablet contains 13.6 milligrams (mg) praziquantel and 54.3 mg pyrantel base (as pyrantel pamoate), 18.2 mg praziquantel and 72.6 mg pyrantel base (as pyrantel pamoate), or 27.2 mg praziquantel and 108.6 mg pyrantel base (as pyrantel pamoate).

* * * * *

(d) * * *

(1) * * *

(i) *Dosage.* Administer a minimum dose of 2.27 mg praziquantel and 9.2 mg pyrantel pamoate per pound of body weight according to the dosing tables on labeling. May be given directly by mouth or in a small amount of food. Do not withhold food prior to or after treatment. If reinfection occurs, treatment may be repeated.

* * * * *

(iii) *Limitations.* Not for use in kittens less than 2 months of age or weighing less than 2.0 pounds. Consult your veterinarian before giving to sick or pregnant animals.

* * * * *

Dated: August 31, 2010.

Elizabeth Rettie,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2010–22043 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2010–N–0002]

Implantation or Injectable Dosage Form New Animal Drugs; Florfenicol and Flunixin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA adds *Mycoplasma bovis* to the bovine respiratory disease (BRD) pathogens for which use of an injectable solution containing florfenicol and flunixin meglumine is an approved treatment.

DATES: This rule is effective September 3, 2010.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8341, e-mail: *cindy.burnsteel@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Intervet, Inc., 56 Livingston Ave., Roseland, NJ 07068, filed a supplement to NADA 141–299 that provides for use of RESFLOR GOLD (florfenicol and flunixin meglumine), a combination drug injectable solution. The supplement adds *M. bovis* to the BRD pathogens for which the use of this product is approved. The supplemental NADA is approved as of June 7, 2010, and the regulations in 21 CFR 522.956 are amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning on the date of approval.

The agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.956, revise paragraph (d)(2) to read as follows:

§ 522.956 Florfenicol and flunixin.

* * * * *

(d) * * *

(2) *Indications for use.* For treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica*, *Pasteurella multocida*, *Histophilus somni*, and *Mycoplasma bovis*, and control of BRD-associated pyrexia in beef and non-lactating dairy cattle.

* * * * *

Dated: August 31, 2010.

Elizabeth Rettie,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2010–22039 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2010–N–0002]

New Animal Drugs for Use in Animal Feed; Ractopamine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADAs) filed by Elanco Animal Health, A Division of Eli Lilly & Co. The supplemental NADAs provide for administering a Type C medicated feed containing ractopamine hydrochloride as a top dress on Type C medicated feeds containing monensin, USP, or monensin, USP, and tylosin phosphate to cattle fed in confinement for slaughter.

DATES: This rule is effective September 3, 2010.

FOR FURTHER INFORMATION CONTACT: Suzanne J. Sechen, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8105, e-mail: *suzanne.sechen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed a supplement to NADA 141–225 that provides for use of OPTAFLEXX (ractopamine hydrochloride) and RUMENSIN (monensin, USP) Type A medicated articles to formulate two-way combination drug Type C medicated feeds for cattle fed in confinement for slaughter. Elanco Animal Health also filed a supplement to NADA 141–224 that provides for use of OPTAFLEXX (ractopamine hydrochloride), RUMENSIN (monensin, USP), and TYLAN (tylosin phosphate) Type A medicated articles to formulate three-way combination drug Type C medicated feeds for cattle fed in confinement for slaughter.

The supplemental NADAs provide for administering ractopamine hydrochloride Type C medicated feeds as a top dress on Type C medicated feeds containing monensin, USP, or monensin, USP, and tylosin phosphate to cattle fed in confinement for slaughter as the means by which the two-way or three-way combinations will be created. Supplemental NADA 141–224 is approved as of June 7, 2010; supplemental NADA 141–225 is approved as of June 17, 2010; and the regulations in 21 CFR 558.500 are amended to reflect the approvals.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summaries of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33 that these actions are of a type that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. In § 558.500, add paragraphs (e)(2)(xii) and (e)(2)(xiii) to read as follows:

§ 558.500 Ractopamine.

* * * * *

(e) * * *

(2) * * *

Ractopamine in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(xii) Not to exceed 800; to provide 70 to 400 mg/head/day.	Monensin 10 to 40 to provide 0.14 to 0.42 mg monensin/lb of body weight, depending on severity of coccidiosis challenge, up to 480 mg/head/day.	Cattle fed in confinement for slaughter: As in paragraph (e)(2)(i) of this section; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*.	Top dress ractopamine in a minimum of 1.0 lb of medicated feed during the last 28 to 42 days on feed. Not for animals intended for breeding. See § 558.355(d).	000986

Ractopamine in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
(xiii) Not to exceed 800; to provide 70 to 400 mg/head/day.	Monensin 10 to 40 to provide 0.14 to 0.42 mg monensin/lb of body weight, depending on severity of coccidiosis challenge, up to 480 mg/head/day, plus tylosin 8 to 10.	Cattle fed in confinement for slaughter: As in paragraph (e)(2)(i) of this section; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*; and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium* (*Actinomyces*) *pyogenes*.	Top dress ractopamine in a minimum of 1.0 lb of medicated feed during the last 28 to 42 days on feed. Not for animals intended for breeding. See §§ 558.355(d) and 558.625(c).	000986

* * * * *

Dated: August 31, 2010.

Elizabeth Rettie,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2010–22071 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Ch. II

[Docket No. FR–5404–N–02]

Federal Housing Administration Risk Management Initiatives: New Loan-to-Value and Credit Score Requirements

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: On July 15, 2010, HUD issued a notice seeking comment on three initiatives that HUD proposed would contribute to the restoration of the Mutual Mortgage Insurance Fund (MMIF) capital reserve account. This document is limited to implementation of HUD's proposal to introduce a minimum credit score threshold and reduce the maximum LTV. At the end of the public comment period on August 16, 2010, HUD received 902 comments. The overwhelming majority of these comments focused on HUD's proposal to cap seller concessions. HUD is continuing to review and consider the issues raised by commenters on capping seller concessions as well as those pertaining to HUD's proposal to tighten manual underwriting guidelines. HUD's final decision on these two proposals will be addressed separately.

DATES: *Effective Date:* October 4, 2010.

FOR FURTHER INFORMATION CONTACT: Karin Hill, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9278, Washington, DC 20410; telephone number 202–708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—HUD's July 15, 2010 Notice

On July 15, 2010, at 75 FR 41217, HUD issued a proposed rule seeking comment on three initiatives that HUD proposed would contribute to the restoration of the Mutual Mortgage Insurance Fund (MMIF) capital reserve account. The proposed changes were developed to preserve both the historical role of the Federal Housing Administration (FHA) in providing a home financing vehicle during periods of economic volatility and HUD's social mission of helping underserved borrowers. In the July 15, 2010, notice, HUD proposed the following: To reduce the amount of closing costs a seller may pay on behalf of a homebuyer purchasing a home with FHA-insured mortgage financing for the purposes of calculating the maximum mortgage amount; to introduce a credit score threshold as well as reduce the maximum loan-to-value (LTV) for borrowers with lower credit scores who represent a higher risk of default and mortgage insurance claim; and to tighten underwriting standards for mortgage loan transactions that are manually underwritten.

A recently issued independent actuarial study shows that the MMIF capital ratio has fallen below its statutorily mandated threshold.[1] Consistent with HUD's responsibility under the National Housing Act to ensure that the MMIF remains financially sound, HUD published the July 15, 2010 document and sought public comment on the three proposals described above designed to address features of FHA mortgage insurance that have resulted in high mortgage insurance claim rates and present an unacceptable risk of loss to FHA.

Over the past two years, the volume of FHA insurance has increased rapidly as private sources of mortgage finance retreated from the market. FHA's share of the single-family mortgage market today is approximately 30 percent—up from 3 percent in 2007, and the dollar volume of insurance written has jumped from the $56 billion issued in that year to more than $300 billion in 2009. The growth in the MMIF portfolio over such a short period of time coincided with worsening economic conditions that have seen high levels of defaults and foreclosures, and consequently unacceptable risks of loss to the MMIF. Given these conditions and concerns, FHA, in managing the MMIF, must be especially vigilant in monitoring the performance of the portfolio, enhancing risk controls, and tightening standards to address portions of the business that expose homeowners to excessive financial risks. FHA's authorizing statute, the National Housing Act (12 U.S.C. 1701 *et seq.*), envisions that FHA will adjust program standards and practices, as necessary, to operate the MMIF, with reasonable expectations of financial loss. Within the past year, FHA has adjusted several program standards and practices so that the MMIF is preserved and FHA is operating the MMIF with acceptable risks of financial loss, not unacceptable risks.[2]

[1] On November 13, 2009, HUD released an independent actuarial study that reported that FHA will likely sustain significant losses from mortgage loans made prior to 2009, due to the high concentration of seller-financed downpayment assistance mortgage loans and declining real estate values nationwide, and that the MMIF capital reserve relative to the amount of outstanding insurance in force had fallen below the statutorily mandated 2 percent ratio. The capital reserve account serves as a back-up fund, where FHA holds additional capital to cover unexpected losses. The capital ratio generally reflects the reserves available (net of expected claims and expenses), as a percentage of the current portfolio, to address unexpected losses. The report can be found at: *http://www.hud.gov/offices/hsg/fhafy09annualmanagementreport.pdf.*

[2] While the Federal Credit Reform Act of 1990 requires that FHA (and all other government credit agencies) estimate and budget for the anticipated cost of mortgage loan guarantees, the National

The July 15, 2010, notice represents another step in HUD's effort to preserve the MMIF and preserve FHA as a source of available credit for affordable home mortgages. Interested readers are referred to the July 15, 2010 notice for details regarding the proposed changes to FHA requirements.

II. This Notice—Addressing Solely Minimum Credit Score and New LTV Requirements

As noted in the preceding section, this document is limited to implementation of the revised credit score and LTV requirements, and takes into consideration the public comments received on HUD's proposal to establish a minimum decision credit score and reduce LTV, as set forth in the July 15, 2010 notice. The majority of the public comments that HUD received in response to the July 15, 2010, focused on the other two proposals (the reduction in seller concessions and revised manual underwriting requirements). HUD is continuing to review and consider the issues raised by the comments on these two proposals, as well as alternative proposals raised by commenters. HUD's final decision on these two proposals will be addressed separately. Section III of this document discusses the significant issues raised by the public comments regarding the new credit score and LTV requirements, as well as HUD's responses to these issues. The separate document to address capping seller concessions and tightening underwriting guidelines will address the public comments on these proposals.

The July 15, 2010 notice more fully addresses the reasons for the establishment of a minimum decision credit score and reduction in LTV for FHA mortgage insurance, and readers are referred to the notice for the more in-depth discussion of this proposal (see 75 FR 41220–41222). As discussed in the July 15, 2010, notice, FHA serves very few borrowers with credit scores below 500; however, the performance of these borrowers is very poor. FHA data indicate that insured mortgages with decision credit scores below 580 have significantly worse default and claim experience than do loans at or above 580. The revised credit score and LTV requirements increase the likelihood that borrowers who are offered FHA-insured mortgages are capable of repaying these mortgages. Under this document, effectively, a borrower with a decision credit score between 500 and 579 will be required to make a greater downpayment [at minimum, 10 percent] than a borrower with a higher score, for the purchase of a home with the same sales price.[3] Borrowers with credit scores below 500 will not be eligible for FHA-insured financing. The new LTV and credit score requirements will reduce the risk to the MMIF and ensure that home buyers are offered mortgage loans that are sustainable. Section IV of this document implements the minimum decision credit score and new LTV requirements. HUD will also issue additional guidance through Mortgagee Letter to assist in implementation of these new requirements.

III. Discussion of the Public Comments on the July 15, 2010 Proposal

At the close of the public comment period on August 16, 2010, HUD received 902 public comments on the issue of establishing a minimum decision credit score and new LTV requirements. This section discusses the most significant issues raised by the commenters on these proposals, and HUD's responses to these issues.

Comment: Support for revised credit score and LTV requirements. Several commenters wrote in support of the proposed revised credit score and LTV requirements. The commenters agreed that proposed changes to FHA requirements would help ensure that borrowers do not assume more mortgage debt than they are able to afford.

HUD Response. HUD appreciates the support expressed by commenters, and agrees that the changes will reduce the risk to the MMIF and ensure that homebuyers are offered FHA-insured mortgage loans that are sustainable.

Comment: The proposed revisions do not go far enough. Several commenters, while supportive of the proposed changes, recommended that HUD adopt more stringent credit score and LTV requirements. The measures recommended by the commenters varied, with suggested minimum decision scores most commonly ranging between 580 and 625. The commenters were in agreement that a higher minimum credit score would further protect borrowers and the FHA insurance funds.

HUD Response. HUD has not revised its proposal in response to these comments. In establishing the revised credit score requirements, HUD has endeavored to balance the need to protect the MMIF capital reserve account, while at the same time preserving the historical role of FHA in providing home financing vehicles during periods of economic volatility. Too high of a minimum score would undermine HUD's mission of expanding affordable homeownership opportunity, while too low a score would fail to replenish the MMIF capital reserves. As noted above, and discussed in more detail in the July 15, 2010, notice, the minimum credit score of 500 to determine eligibility for FHA financing was selected after a careful analysis of FHA mortgage performance data. This data indicates that while FHA serves few borrowers with credit scores below 500 their performance is clearly very poor. The data also indicates that insured mortgages with decision credit scores below 580 have significantly worse default and claim experience than do loans at or above 580.

Comment: Opposition to revised credit score requirements. In contrast to the preceding comments, several commenters opposed any changes to the FHA credit score and LTV requirements. These commenters wrote that the changes would only make it more difficult for borrowers in difficult economic times to obtain mortgage financing. The commenters also expressed concerns that the changes would hurt the overall economy by further restricting the availability of mortgage financing.

HUD Response. As noted in the response to the preceding comments, FHA takes seriously its mission to help underserved borrowers. As discussed above, HUD also has a statutory obligation to protect the MMIF capital reserve accounts by ensuring that borrowers who are offered FHA-insured mortgages are capable of repaying these mortgages. The changes balance the twin goals of protecting the financial health of the MMIF, while continuing to meet FHA's historic role of providing a vehicle for mortgage lenders to provide affordable mortgages. Moreover, as also noted, sustainable homeownership is essential to a healthy and well-functioning housing market. These changes will promote that goal by helping to ensure that FHA homeowners are able to afford their mortgage loans. HUD based the revised credit score

Housing Act imposes a special requirement that the MMIF hold an additional amount of funds in reserve to cover unexpected losses. FHA maintains the MMIF capital reserve in a special reserve account. The MMIF capital reserve account serves as a back-up fund, where FHA holds additional capital to cover unexpected losses.

[3] FHA will continue to allow borrowers to use permissible sources of funds, as described in FHA Handbook 4155.1, paragraph 5.B.1, to meet the minimum cash investment in the form of a downpayment. Gifts from family members, charitable organizations, employers, and government entities are also permitted, provided that none of the parties financially benefit from the sales transaction. In addition, governmental entities, including instrumentalities thereof, as described in Section 528 of the National Housing Act, may offer secondary financing to cover the borrowers' cash investment.

requirements on a careful analysis of historical data that indicates FHA serves few borrowers with a credit score below the new minimum of 500. Moreover, HUD has taken steps to mitigate the impacts of establishing a minimum decision credit score. First, HUD has established a threshold score for FHA-insured mortgages that is below the cut-off score of 620 used by many private lenders. Second, HUD is providing a special, temporary allowance to permit a higher LTV when refinancing mortgage loans for certain borrowers with decision credit scores between 500 and 579. HUD is providing this special exemption in recognition of the fact that even homeowners who have been able to make their monthly payments may have had their credit scores negatively impacted by the downturn in the economy.

Comment: A revision to the credit score requirements will have minimal effect. Many commenters questioned the need of establishing a minimum decision credit score of 500, given that most mortgage lenders have adopted a higher minimum credit score. The commenters cited to several industry standards, and most commonly to a minimum credit score of 620. These commenters wrote that HUD's proposal would have little impact since mortgage lenders will not provide mortgage loans to borrowers with credit scores below the minimums they have established.

HUD Response. HUD has not revised its proposal based on these comments. Unlike private mortgage lenders, HUD has an important historical countercyclical position of supporting the private sector when access to capital is constrained, and an equally important social mission of helping unserved borrowers. HUD takes these responsibilities seriously and, as discussed more fully in the responses to the preceding comments, continues to believe that the revised credit score requirements strike the appropriate balance between fulfilling HUD's historical and social responsibilities, as well as its statutory duty to preserve the MMIF capital reserves.

Comment: Acceptable score ranges for other scoring models. The July 15, 2010, notice invited comment on the best means for FHA to provide guidance on acceptable score ranges for scoring models other than FICO-based decision scores, to ensure that the scales used for all scoring systems are consistent and appropriate for FHA borrowers (*see* 75 FR 41220). In response, a few commenters wrote to suggest alternative scoring models. For example, one commenter (the developer of a consumer credit score model) proposed a calibration analysis of the FHA loan portfolio using its credit score model. Another commenter advocated that HUD provide further guidance on risk thresholds, decision points and pricing tiers, so that developers of risk assessment services can initiate new processes. The majority of these commenters, however, questioned the usefulness of using any credit score model, writing that credit scores are an imperfect indicator of risk and often not reflective of a person's ability to pay. The commenters also wrote that credit scores sometimes have disparate impact on minorities compared to other borrowers.

HUD Response. HUD has not revised the July 15, 2010, notice in response to these comments. With respect to the use of other credit scoring models, HUD greatly appreciates the suggestions offered by the commenters. However, HUD believes that additional analysis of this issue is required given the complexity of the proposed approaches as well as the need to provide sufficient notice to the industry of such a significant change to current FHA requirements. HUD is not unsympathetic to the concerns expressed by the commenters that questioned the utility of credit models, and reiterates that it has taken several steps to mitigate the impacts of establishing a minimum decision credit score. As noted, HUD has established a threshold below the threshold score widely used by many private lenders and is providing a temporary allowance to permit a higher LTV when refinancing mortgage loans for certain borrowers. Further, in response to many of the concerns expressed by these commenters, FHA requires the use of manual underwriting to address cases where the borrower has very limited or nontraditional credit history, a FICO-based credit score may not have been issued, or the credit score may be based on references that are few in number or do not effectively predict future credit worthiness.

IV. Establishment of Minimum Decision Credit Score and New LTV Requirements

Commencing on the effective date:

1. *Minimum Credit Score.* Borrowers will be required to have a minimum decision credit score of no less than 500 to be eligible for FHA financing.

The decision credit score used by FHA is based on methodologies developed by the FICO Corporation. FICO scores, which range from a low of 300 to a high of 850, are calculated with input by each of the three National Credit Bureaus and are based upon credit-related information reported by creditors, specific to each applicant. Lower credit scores indicate greater risk of default on any new credit extended to the applicant. The decision credit score is based on the middle of three National Credit Bureau scores or the lower of two scores when all three are not available, for the lowest scoring applicant.

2. *LTV requirements.* The LTV for FHA-insured mortgage loans (purchase and refinance) will be limited to 90 percent for borrowers with a decision score between 500 and 579. Maximum FHA-insured financing (typically, 96.5 percent LTV for purchase transactions and 97.75 percent for rate and term refinance transactions) will continue to be available for borrowers with credit scores at or above 580.

3. *Temporary Exemption for Borrowers Seeking to Refinance.* As indicated in the July 15, 2010 notice, FHA is providing a special, temporary allowance to permit higher LTV mortgage loans for borrowers with lower decision credit scores, so long as they involve a reduction of existing mortgage indebtedness pursuant to FHA program adjustments announced in HUD Mortgagee Letter 2010–23.[4] In accordance with Mortgagee Letter 2010–23, the current mortgage lender will need to agree to accept a short pay off, accepting less than the full amount owed on the original mortgage in order to satisfy the outstanding debt.

This temporary exemption recognizes that, given current economic conditions, the decision credit scores announced in this notice may be counterproductive in helping existing homeowners refinance to obtain more affordable mortgages and save their homes. FHA recognizes that even homeowners who have been able to make their monthly payments may have had their credit scores negatively impacted by the downturn in the economy which has so seriously affected the housing market.

This exemption is applicable only to borrowers with credit scores between 500 to 579. Further, the exemption is applicable only to refinance transactions originated pursuant to Mortgagee Letter 2010–23 and closed on or before December 31, 2012.

V. Findings and Certification

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this document under Executive Order 12866 (entitled

[4] The Mortgagee Letter is available at: *http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/*

"Regulatory Planning and Review"). The document was determined to be a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order).

FHA is implementing one change to replenish the MMIF capital reserve account. FHA is establishing a two-part credit-score threshold, with one lower bound for loans with loan-to-value ratios of 90 percent or less, and a higher threshold for those with loan-to-value ratios up to the statutory maximums. This is the first time that FHA has ever instituted an absolute lower-bound for borrower credit scores. Borrowers with low credit scores present higher risk of default and mortgage insurance claim. Such transactions that lack the additional credit enhancements announced in this document result in higher mortgage insurance claim rates and present an unacceptable risk of loss. The benefit of the revised credit score and LTV requirements will be to reduce the net losses due to high rates of insurance claims on affected loans, while the cost will be the value of the homeownership opportunity denied to the excluded borrowers. HUD prepared an economic analysis assessing costs and benefits in conjunction with development of the July 15, 2010, **Federal Register** notice. As noted above, HUD is implementing the proposed credit score and LTV requirements without change and, therefore that analysis remains applicable to this document. HUD's full analysis can be found at *http://www.hud.gov/offices/hsg/sfh/hsgsingle.cfm.*

The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339.

Dated: August 31, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010–22133 Filed 9–2–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0800]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Camp Lejeune, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Onslow Beach Swing Bridge, across the Atlantic Intracoastal Waterway, mile 240.7, at Camp Lejeune, NC. The deviation is necessary to facilitate urgent replacement of the main hydraulic system. This deviation allows the bridge to be in the closed-to-navigation position.

DATES: This deviation is effective from 1 a.m. on September 8, 2010 to 11:59 p.m. on September 14, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0800 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0800 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District; telephone 757–398–6422, e-mail *Bill.H.Brazier@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Onslow Beach Swing Bridge at Atlantic Intracoastal Waterway, mile 240.7, at Camp Lejeune NC, has a vertical clearance in the closed position to vessels of approximately 12 feet, above mean high water.

The U.S. Marine Corps at Camp Lejeune NC, who owns and operates this swing-type drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.821(a)(1) to facilitate urgent replacement of the main hydraulic system.

Under this temporary deviation, the Onslow Beach Swing Bridge will be maintained in the closed-to-navigation position from 1 a.m. on Wednesday, September 8, 2010 through 11:59 p.m. on Tuesday, September 14, 2010.

Vessels that can pass under the bridge without a bridge opening may do so at anytime. There are no alternate routes for vessels transiting this section of the Atlantic Intracoastal Waterway and the drawbridge will be unable to open in the event of an emergency.

The Coast Guard has coordinated the restrictions with the local users of the waterway, the Steamship Trade Committee, the Virginia Maritime Association, and marinas and will inform unexpected users through our Local and Broadcast Notices to Mariners of the closure period for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 18, 2010.

Waverly W. Gregory, Jr.,

Bridge Administrator, Fifth Coast Guard District.

[FR Doc. 2010–22033 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0795]

Drawbridge Operation Regulations; Shaw Cove, New London, CT, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Amtrak Bridge across Shaw Cove, mile 0.0, at New London, Connecticut. This deviation allows the bridge to remain in the closed position two separate days in October and November to facilitate scheduled maintenance.

DATES: This deviation is effective from 6 p.m. on October 21, 2010 through 6 a.m. on November 16, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0795 and are available online at *http://www.regulations.gov,* inserting USCG–2010–0795 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Amtrak Bridge, across Shaw Cove at mile 0.0, at New London, Connecticut, has a vertical clearance in the closed position of 3 feet at mean high water and 6 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.223.

The owner of the bridge, the National Passenger Rail Corporation (Amtrak), requested a temporary deviation from the regulations to facilitate scheduled bridge maintenance, gear box repairs at the bridge.

Under this temporary deviation the Amtrak Bridge may remain in the closed position from 6 p.m. on October 21, 2010 through 6 a.m. on October 22, 2010 to remove the old gear box. The bridge may remain in the closed position from 6 p.m. on November 12, 2010 through 6 a.m. on November 13, 2010, to install the rebuilt gear box.

In the event of inclement weather the bridge may remain in the closed position to reinstall the gear box from 6 p.m. on November 14, 2010 to 6 a.m. on November 15, 2010 or from 6 p.m. on November 15, 2010 to 6 a.m. on November 16, 2010.

A crane barge will be located in the south navigation channel during the removal and installation of the gear box. Vessels that can pass under the bridge in the closed position may do at any time through the north Channel.

Waterway users were advised of the requested bridge and channel closure and offered no objection.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 24, 2010.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2010–22035 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0815]

Drawbridge Operation Regulation; Trent River, New Bern, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the US70 (Alfred C. Cunningham) Bridge across Trent River, mile 0.0, at New Bern, NC, to accommodate a bike race and parade. This deviation allows the drawbridge to be maintained in the closed position to vessels at specific dates and times.

DATES: This deviation is effective from 8 a.m. on September 11, 2010 to 12:30 p.m. on September 18, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0815 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0815 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Sandra S. Elliott, Bridge Management Specialist, Fifth Coast Guard District; telephone 757–398–6557, e-mail *Sandra.S.Elliott@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The US70 (Alfred C. Cunningham) Bridge a bascule lift bridge across Trent River, at mile 0.0, has a vertical clearance in the closed position to vessels of approximately 14 feet above mean high water.

On behalf of the National Multiple Sclerosis (MS) Society and the City of New Bern NC, the North Carolina Department of Transportation has requested a temporary deviation from the current operating regulations of the bridge set out in 33 CFR 117.843 (a) to accommodate both the annual Bike MS/Historic New Bern Ride and the City of New Bern Heritage Parade.

Under this deviation, the drawbridge would be allowed to remain in the closed position to vessels on two separate occasions on the following dates and times: For the annual Bike MS/Historic New Bern Ride from 8 a.m. to 9 a.m. on Saturday, September 11, 2010 and Sunday, September 12, 2010, respectively; and for the City of New Bern Heritage Parade from 10 a.m. to 12:30 p.m. on Saturday, September 18, 2010. There are no alternate routes for vessels transiting this section of the Trent River and the drawbridge will be able to open in the event of an emergency.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviations.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time periods. This deviation from the operating regulation is authorized under 33 CFR 117.35.

Dated: August 24, 2010.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2010–22036 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 127

[USCG–2007–27022]

RIN 1625–AB13

Revision of LNG and LHG Waterfront Facility General Requirements

AGENCY: Coast Guard, DHS.

ACTION: Rule; information collection approval.

SUMMARY: In a final rule published May 26, 2010, the Coast Guard amended Letter of Intent (LOI) and Waterway Suitability Assessment (WSA) requirements for liquefied natural gas (LNG) and liquefied hazardous gas (LHG) facilities. The amendment triggered information collection requirements affecting these facilities. The Coast Guard now announces that the collection of information has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The OMB Control Number is 1625–0049.

DATES: The collection of information requirement associated with 33 CFR 127.007 will be enforced beginning September 3, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions about this document, contact Commander Patrick Clark, CG–5222, U.S. Coast Guard, at 202–372–1410 or by e-mail at *Patrick.W.Clark@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: On May 26, 2010, the Coast Guard published a final rule entitled "Revision of LNG and LHG Waterfront Facility General Requirements" (75 FR 29420) amending the LOI and Letter of Recommendation (LOR) regulations for LNG and LHG facilities. The rule became effective on June 25, 2010.

The revised 33 CFR 127.007 describes LOI and WSA requirements for LNG and LHG facilities. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the preamble of the final rule stated that the Coast Guard would not enforce the collection of information requirements associated with 33 CFR 127.007 until the collection of information request was approved by the Office of Management and Budget (OMB), and indicated the Coast Guard would publish a notice in the **Federal Register** announcing OMB approval.

The Coast Guard submitted the information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On August 20, 2010, OMB approved the collection of information, which is assigned OMB Control Number 1625–0049. The approval of this collection expires on August 31, 2013. A copy of the OMB notice of action is available in our online docket at *http://www.regulations.gov*.

Dated: August 30, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2010–22021 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 154 and 155

[USCG–2001–8661]

RIN 1625–AA26

Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions

AGENCY: Coast Guard, DHS.

ACTION: Rule; information collection approval.

SUMMARY: On August 31, 2009, the Coast Guard amended its requirements for oil-spill removal equipment associated with vessel response plans and marine transportation-related facility response plans. The amendment triggered information collection requirements affecting vessel response planholders required to establish evidence that they have properly planned to mitigate oil outflow and to provide that information to the Coast Guard for its use in emergency response. This notice announces that the collection of information has been approved by the Office of Management and Budget (OMB) and may now be enforced. The OMB Control Number is 1625–0066.

DATES: The collection of information requirements under 33 CFR 154.1065 and 155.1070 will be enforced beginning September 3, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, contact Lieutenant Commander Ryan Allain at 202–372–1226 or *Ryan.D.Allain@uscg.mil*. If you have questions on viewing the docket (USCG–2001–8661), call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On August 31, 2009, the Coast Guard published a final rule entitled "Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions" (74 FR 45004). This final rule amended its requirements for oil-spill removal equipment associated with vessel response plans and marine transportation-related facility response plans. Those updates were based on a review of those requirements conducted by the Coast Guard pursuant to its regulations. The changes added requirements for new response technologies and revised methods and procedures for responding to oil spills upon the navigable waters of the United States, adjoining shorelines, and the exclusive economic zone. Those revisions triggered information collection requirements under 33 CFR 154.1065 and 155.1070. This provision requires that planholders show evidence that they have properly planned to mitigate oil outflow and to provide that information to the Coast Guard for its use in emergency response. This evidence includes name and contact information for oil spill responders for each vessel or facility with appropriate equipment and resources located in each zone of operation; specific lists of equipment that the resource providers will make available in case of an incident in each zone; and certification that the responders are qualified and have given permission to be included in the plan. Oil Spill Removal Organizations (ORSOs) will also need to update contracts and their own records to add dispersant capabilities when appropriate. The Coast Guard will use this information to determine whether a vessel or facility meets the salvage and marine firefighting requirements.

With the exception of this collection of information, the Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions final rule became effective on September 30, 2009. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the preamble to the final rule stated that the Coast Guard would not enforce the collection of information requirements occurring under 33 CFR

154.1065 and 155.1070 until the collection of information request was approved by OMB, and also stated that the Coast Guard would publish a notice in the **Federal Register** announcing that OMB approved and assigned a control number for the requirement.

The Coast Guard submitted the information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On August 20, 2010, OMB approved the collection of information and assigned the collection OMB Control Number 1625–0066 entitled "Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound, Alaska". The approval for this collection of information expires on August 31, 2013. A copy of the OMB notice of action is available in our online docket at *http://www.regulations.gov*.

Dated: August 30, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2010–22026 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 155

[USCG–1998–3417]

RIN 1625–AA19

Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil

AGENCY: Coast Guard, DHS.

ACTION: Rule; information collection approval.

SUMMARY: On December 31, 2008, the Coast Guard amended the vessel response plan salvage and marine firefighting requirements for tank vessels carrying oil. The amendment triggered information collection requirements affecting vessel response planholders required to establish evidence that they have properly planned to mitigate oil outflow and to provide that information to the Coast Guard for its use in emergency response. This notice announces that the collection of information has been approved by the Office of Management and Budget (OMB) and may now be enforced. The OMB Control Number is 1625–0066.

DATES: The collection of information requirements under 33 CFR 155, subpart I will be enforced beginning September 3, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, contact Lieutenant Commander Ryan Allain at 202–372–1226 or *Ryan.D.Allain@uscg.mil*. If you have questions on viewing the docket (USCG–1998–3417), call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On December 31, 2008, the Coast Guard published a final rule entitled "Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil" (73 FR 80618). This final rule amended the vessel response plan salvage and marine firefighting requirements for tank vessels carrying oil. Those revisions clarified the salvage and marine firefighting services that must be identified in vessel response plans and set new response time requirements for each of the required salvage and marine firefighting services. The changes ensured that the appropriate salvage and marine firefighting resources were identified and available for responding to incidents up to and including the worst-case discharge scenario. Those revisions triggered information collection requirements under 33 CFR 155, subpart I (see 155.4020). This provision requires that planholders show evidence that they have properly planned to mitigate oil outflow and to provide that information to the Coast Guard for its use in emergency response. This evidence includes name and contact information for resource providers for each vessel with appropriate equipment and resources located in each zone of operation, marine firefighting pre-fire plans, and certification that the responders are qualified and have given permission to be included in the vessel response plan. The Coast Guard will use this information to determine whether a vessel meets the salvage and marine firefighting requirements.

With the exception of this collection of information, the Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil final rule became effective on January 30, 2009. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the preamble to the final rule stated that the Coast Guard would not enforce the collection of information requirements occurring under 33 CFR 155, subpart I until the collection of information request was approved by OMB, and also stated that the Coast Guard would publish a notice in the **Federal Register** announcing that OMB approved and assigned a control number for the requirement.

The Coast Guard submitted the information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On August 20, 2010, OMB approved the collection of information and assigned the collection OMB Control Number 1625–0066 entitled "Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound, Alaska." The approval for this collection of information expires on August 31, 2013. A copy of the OMB notice of action is available in our online docket at *http://www.regulations.gov*.

Dated: August 30, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2010–22022 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0728]

RIN 1625–AA00

Safety Zone; Red Bull Flugtag, Delaware River, Camden, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in an area of the Delaware River, Camden, NJ, described as North of the Wiggins park Marina and South of the Benjamin Franklin Bridge. The safety zone will restrict vessel traffic from a portion of the Delaware River during the Red Bull Flugtag event. The safety zone is necessary to protect event participants, life, and property.

DATES: This rule is effective from 10 a.m. until 5 p.m. on September 4, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0728 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0728 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Corrina Ott, Coast Guard; telephone 215–271–4902, e-mail *Corrina.Ott@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM is impracticable and contrary to the public interest. Delaying the effective date by first publishing an NPRM and holding a comment period would be contrary to the rule's objectives of ensuring safety of life on the navigable waters during this scheduled event as immediate action is needed to protect participants of the event from vessels and vessels from any debris in the water as a result from the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this regulation would be contrary to the public interest as immediate action is participants of the event from vessels and vessels from any debris in the water as a result from the event.

Basis and Purpose

Red Bull has contracted to conduct a Flugtag event along the Camden Riverfront. During this event participants will enter the Delaware River from an elevated platform, utilizing makeshift flying apparatuses with the intent to maintain a controlled descent into the Delaware River. This safety zone will help protect both life and property on the navigable waterways of the Delaware River in respect to event participants and commercial and recreational vessel traffic.

Discussion of Rule

The Coast Guard establishes a temporary safety zone on the Delaware River in Camden, NJ from 10 a.m. to 5 p.m. on September 4, 2010. The safety zone will restrict vessel traffic on the Delaware River in the immediate area of the Red Bull Flugtag event taking place inside a boundary described as originating from the shoreline then west to 39°56′54″ N, 075°07′59″ W then north to 39°56′56″ N, 075°07′58″ W then north to 39°56′58″ N, 075°07′58″ W then east to 39°56′58″ N, 075°07′56″ W then east to the shoreline. The safety zone will protect event participants, life, and property while preventing vessel traffic from navigating on the Delaware River in an area described as north of the Wiggins Park Marina and south of the Benjamin Franklin Bridge. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement period. The COTP will notify the public of specific enforcement times by marine Radio Safety Broadcast.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Due to the location of the safety zone being outside of and East of Anchorage Area #13, as well as being located in an area not subject to regular flow of vessel traffic, the regulatory impact is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities: the owners or operator so vessel intending to transit East of Anchorage Area #13 in the Delaware River South of the Benjamin Franklin Bridge from 10 a.m. to 5 p.m. on September 4, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for seven hours on September 4, 2010. Additionally, the safety zone is located in an area where vessel traffic does not regularly transit, approximately 375 yards to the East of the main ship channel located in the Delaware River. Vessel traffic can pass safely around the zone. Before the enforcement period, the Coast Guard will issue maritime advisories widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves a limited-in-duration safety zone intended to protect life and property on the navigable waterways of the Delaware River. An environmental analysis checklist and a categorical exclusion determination will be made available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T05–0728 to read as follows:

§ 165.T05–0728 Safety Zone; Red Bull Flugtag, Delaware River, Camden, NJ

(a) *Location.* The safety zone includes all waters inside a boundary described as originating from the shoreline then west to 39°56′54″ N, 075°07′59″ W then north to 39°56′56″ N, 075°07′58″ W then north to 39°56′58″ N, 075°07′58″ W then east to 39°56′58″ N, 075°07′56″ W then east to the shoreline.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the COTP, Delaware Bay.

(2) *Official Patrol* means any vessel assigned or approved by COTP, Sector Delaware Bay with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign as well as any assisting local law enforcement vessels.

(c) *Regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(d) *Effective Period.* The safety zone will be in effect from 10 a.m. to 5 p.m. on September 4, 2010.

Dated: July 29, 2010.

R.T. Gatlin,

Captain, U.S. Coast Guard, Acting Captain of the Port Delaware Bay.

[FR Doc. 2010–22032 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN52

Technical Revisions To Conform With the Veterans' Mental Health Care Act of 2008 and Other Laws

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Veterans Affairs (VA) medical regulations to make the language of several provisions conform to changes in law made by the Homeless Veterans Comprehensive Assistance Act of 2001; the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003; and the Veterans' Mental Health and Other Care Improvements Act of 2008.

DATES: *Effective Date:* October 4, 2010.

FOR FURTHER INFORMATION CONTACT: Roscoe Butler, Deputy Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–1586. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This document amends sections of 38 CFR part 17 to conform with changes made

by certain sections of the Veterans' Mental Health and Other Care Improvements Act of 2008 ("the 2008 Act"), Public Law 110–387, and by section 101 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 ("the 2003 Act"), Public Law 108–170. It also makes a technical change in order to improve data management and evaluation of a dental care program authorized by section 2062 of the Homeless Veterans Comprehensive Assistance Act of 2001 ("the 2001 Act"), Public Law 107–95.

Section 801 of the 2008 Act eliminated a sunset provision that had applied to the inclusion of noninstitutional extended care in the statutory definition of medical services. In light of the removal of this sunset provision, we have included "noninstitutional extended care" in the regulations that define medical services and the medical benefits package, at §§ 17.30(a)(1) and 17.38(a)(1)(xi)(B) respectively. We note that § 17.38(a)(1)(xi)(B) already lists several specific types of noninstitutional extended care, but including this term in the regulatory definition of the medical benefits package will eliminate any confusion as to whether other types of noninstitutional extended care are included.

Section 301(a) of the 2008 Act amended 38 U.S.C. 1701(5)(B) and 1782(a) by inserting "marriage and family counseling" after "professional counseling." We have made corresponding changes to 38 CFR 17.30(a)(2) and 17.38(a)(1)(vii).

Section 301(a)(1)(B) of the 2008 Act further amended 38 U.S.C. 1701(5)(B) by striking "as may be essential to" and inserting "as the Secretary considers appropriate for," authorizing VA to exercise discretion to provide certain mental health services, counseling, and training for members of a hospitalized veteran's household or family. Section 301(a)(2)(B) amended 38 U.S.C. 1782(b) by removing limitations in section 1782(b)(1) and (2) on providing counseling for family members of non-service-connected veterans. We are revising 38 CFR 17.30(a)(2) and 17.38(a)(1)(vii) to reflect these changes in law. These revisions include removing paragraphs (a)(2)(i) and (ii) of § 17.30 because they codified statutory provisions that been repealed. To the extent that § 17.30(a)(2)(ii) references § 17.84(c), it is inaccurate because this provision has been deleted and the reference is outdated. Instead, these provisions will be more properly addressed in future regulations regarding the Civilian Health and Medical Program of the Department of Veterans Affairs, which provides health benefits for dependents and survivors of veterans who are service connected, permanently and totally disabled, or died of a service-connected condition. In the meantime, VA will continue to implement its authority as written in the last sentence of 38 U.S.C. 1781(b).

Section 409 of the 2008 Act amended 38 U.S.C. 1710 so that hospice care is not subject to copayment requirements for inpatient hospital care or outpatient medical care. We are amending § 17.108(e) accordingly.

Section 101(b) of the 2003 Act amended 38 U.S.C. 1722A(a)(3) to exempt former prisoners of war from the pharmacy copayment requirement. We are amending 38 CFR 17.110(c) accordingly, by adding medication for this class as an exception to the copayment requirement.

Section 101(a) of the 2003 Act amended 38 U.S.C. 1712(a)(1)(F) to remove the prerequisite of a detainment or internment period of at least 90 days to establish eligibility for outpatient dental care for a former prisoner of war. As a result, there is no longer a need to distinguish between class II(b) and class II(c) in VA's regulations. To implement this change, we are removing the phrase "for 90 days or more" in § 17.161(e), which will now authorize dental treatment for all prisoners of war as subclass II(c).

Section 3 of the 2001 Act declared it "to be a national goal to end chronic homelessness among veterans within a decade." Section 2062 of the 2001 Act provides authority for the Homeless Veterans Dental Care Program, a one-time course of dental care for certain homeless veterans and other enrolled veterans. This rulemaking assigns subclass II(b) to veterans eligible for outpatient dental care through the program because it is useful for data management purposes and to clarify the dental services available to this group of veterans.

We also note, for the benefit of the public, that several sections of the 2008 Act that require rulemaking have already been proposed or will be proposed in separate rulemakings. Section 401, concerning VA's beneficiary travel program, and section 402, concerning emergency treatment, require VA to make certain policy decisions, which will be reflected in rulemakings that will require public notice and comment. Section 408 liberalized VA's authority to provide care to certain children of veterans who are born with spina bifida. Rules implementing this section were proposed in "Herbicide Exposure and Veterans with Covered Service in Korea," RIN 2900–AN27. *See* 74 FR 36640 (July 24, 2009). Finally, section 604 authorized VA to provide financial assistance to help very low-income veteran families find or keep permanent housing. This section established a new grant program, which VA proposed to implement in a separate rulemaking. *See* 75 FR 24514 (May 5, 2010).

Administrative Procedure Act

The changes made by this final rule are interpretive rules, nonsubstantive changes to rules, or restatements of statutory requirements. These changes are exempt from the notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553(b) and (d).

Executive Order 12866

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

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal

governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

The final rule does not contain any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601- 612. This final rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The program that this rule affects has the following Catalog of Federal Domestic Assistance numbers and titles: 64.009 Veterans Medical Care Benefits, 64.010 Veterans Nursing Home Care and 64.011 Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on August 30, 2010 for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Veterans.

Dated: August 31, 2010.

Robert C. McFetridge,

Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR Part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for Part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. Section 17.30 is amended by:

■ a. In paragraph (a)(1), adding "noninstitutional extended care," after "38 U.S.C. 1762,";

■ b. Revising paragraph (a)(2) to read as follows:

§ 17.30. Definitions.

* * * * *

(a) * * *

(2) Consultation, professional counseling, marriage and family counseling, training, and mental health services for the members of the immediate family or legal guardian of the veteran or the individual in whose household the veteran certifies an intention to live, as necessary in connection with the veteran's treatment.

* * * * *

■ 3. Section 17.38 is amended by:

■ a. Revising paragraph (a)(1)(vii).

■ b. In paragraph (a)(1)(xi)(B), removing "Noninstitutional geriatric" and adding, in its place, "Noninstitutional extended care services, including but not limited to noninstitutional geriatric".

■ c. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 17.38. Medical benefits package.

* * * * *

(a) * * *

(1) * * *

(vii) Consultation, professional counseling, marriage and family counseling, training, and mental health services for the members of the immediate family or legal guardian of the veteran or the individual in whose household the veteran certifies an intention to live, as necessary and appropriate, in connection with the veteran's treatment.

* * * * *

(Authority 38 U.S.C. 101, 501, 1701, 1705, 1710, 1710A, 1721, 1722, 1782)

■ 4. Section 17.108 is amended by:

■ a. In paragraph (e)(13), removing "; and" and adding, in its place, a semi-colon.

■ b. In paragraph (e)(14), removing the period at the end of the paragraph and adding, in its place, "; and".

■ c. Adding paragraph (e)(15) to read as follows:

§ 17.108 Co-payments for inpatient hospital care and outpatient medical care.

* * * * *

(e) * * *

(15) Hospice care.

* * * * *

■ 5. Section 17.110 is amended by:

■ a. In paragraph (c)(6), removing "; and" and adding, in its place, a semi-colon.

■ b. In paragraph (c)(7), removing the period at the end of the paragraph and adding, in its place, "; and".

■ c. Adding paragraph (c)(8) to read as follows:

§ 17.110 Copayments for medication.

* * * * *

(c) * * *

(8) Medication for a veteran who is a former prisoner of war.

* * * * *

■ 6. Section 17.161 is amended by:

■ a. Adding an authority citation at the end of paragraph (c).

■ b. Revising paragraphs (d) and (e).

The addition and revisions read as follows:

§ 17.161 Authorization of outpatient dental treatment.

* * * * *

(c) * * *

(Authority: 38 U.S.C. 501; 1712(a)(1)(C))

(d) *Class II(b).* Certain homeless and other enrolled veterans eligible for a one-time course of dental care under 38 U.S.C. 2062.

(Authority: 38 U.S.C. 2062; 38 U.S.C. 1712(a)(1)(H))

(e) *Class II(c).* Those who were prisoners of war, as determined by the concerned military service department, may be authorized any needed outpatient dental treatment.

(Authority: Pub. L. 100–322; Pub. L. 108–170; 38 U.S.C. 1712(b)(1)(F))

* * * * *

[FR Doc. 2010–22056 Filed 9–2–10; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[EPA–R09–OAR–2010–0336; FRL–9191–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM–10; Redesignation of the Coso Junction Planning Area to Attainment; Approval of PM–10 Maintenance Plan for the Coso Junction Planning Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the State of California's request to redesignate the Coso Junction planning area (CJPA) to attainment for the particulate matter of ten microns or less (PM–10) national ambient air quality standard (NAAQS). EPA is also approving the PM–10 emissions inventory and the maintenance plan for the CJPA, including control measures for Owens Lake, the primary cause of PM–10 nonattainment in the CJPA. Finally, EPA is finding the contribution of motor vehicles to the area's PM–10 problem insignificant; consequently, the State will not have to complete a regional emissions analysis for PM–10 in any future transportation conformity determination for the CJPA.

DATES: *Effective Date:* This rule is effective on October 4, 2010.

ADDRESSES: You may inspect the supporting information for this action, identified by docket number EPA–R09–OAR–2010–0336, by one of the following methods:

1. Federal eRulemaking portal, *http://www.regulations.gov,* please follow the online instructions; or,

2. Visit our regional office at, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972–3959, *lo.doris@epa.gov.*

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

Table of Contents

I. Summary of Proposed Action
II. The Coso Junction PM–10 Monitoring Site
III. Public Comments and EPA Responses
IV. EPA's Final Action
V. Statutory and Executive Order Reviews

I. Summary of Proposed Action

On June 24, 2010 (75 FR 36023), based on EPA's review of the "2010 PM–10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area," (the 2010 Plan) submitted by California, air quality monitoring data, and other relevant materials, EPA proposed to approve the State of California's request to redesignate the CJPA to attainment of the PM–10 NAAQS, pursuant to Clean Air Act (CAA) sections 107(d)(3)(E) and 175A. The background for today's actions is discussed in detail in EPA's June 24 proposed rulemaking, and in EPA's determination that the CJPA has attained the PM–10 NAAQS. 75 FR 13710 (March 23, 2010) and 75 FR 27944 (May 19, 2010).

EPA proposed to approve the State's redesignation request, based on EPA's determination that the most recent three years of complete, quality-assured data for the period 2007–2009 showed that the CJPA had attained the PM–10 NAAQS, and on EPA's finding that the area meets all other CAA redesignation requirements under sections 107(d)(3)(E) and 175.

EPA proposed to approve the State's maintenance plan, which includes control measures for Owens Lake implemented through the Great Basin Unified Air Pollution Control District (GBUAPCD) Board Order #080128–01 (Appendix C of the 2010 Plan). EPA's proposal discussed the historical relationship between PM–10 emissions from Owens Lake and violations of the PM–10 NAAQS in the CJPA, the application of control measures on Owens Lake that have resulted in attainment of the PM–10 NAAQS in the CJPA, and the continued controls that are expected to provide for maintenance of the PM–10 NAAQS into the future. We also proposed to approve the emissions inventory submitted with the maintenance plan as meeting the requirements of section 172(c)(3).

Finally, EPA proposed to find that motor vehicle-related PM–10 emissions are insignificant contributors to the area's PM–10 problem. As a result of this finding, the state would not have to complete a regional emissions analysis for PM–10 in any future transportation conformity determination for the CJPA.

EPA's June 24, 2010 proposal was based on a "parallel processing" [1] request from the State of California. 40 CFR part 51, Appendix V. As expected, the California Air Resources Board (CARB) adopted the 2010 Plan on June 24, 2010 and submitted the 2010 Plan to EPA on July 14, 2010. The July 14, 2010 submittal is identical to the materials CARB submitted for parallel processing on May 28, 2010. Consequently, there is no need to revise our June 24, 2010 proposal and we may proceed with today's final action on the basis of our prior proposal.

II. The Coso Junction PM–10 Monitoring Site

In EPA's proposed rule, we noted that the GBUAPCD had determined that the Coso Junction monitoring site had been violating siting criteria since January 2010. 75 FR 36023, 36025. As discussed in the proposed rule, during a site visit on May 27, 2010, the GBUAPCD learned that the monitoring site had not been watered for several years resulting in a lack of vegetation surrounding the site thus exposing friable soils that could impact monitor readings. In addition, the GBUAPCD learned that beginning in January 2010 a contractor for the property owner, the Coso Operating Company, was driving over the unpaved access road adjacent to the monitor on a regular basis, thus causing the deterioration in the condition of the unpaved access road which had previously been covered by gravel. This combination of events near the monitor led the District to conclude that the data collected from January 2010 through May 27, 2010 must be considered invalid for regulatory purposes, and EPA agreed with the District's assessment. Following the site visit, the District and the Coso Operating Company promptly started to work on resolving the problems in order to be able to again collect valid data as soon as possible. The Coso Operating Company thereafter restricted traffic on the unpaved access road to the monitor and moved the contractor's trailer to a location away from the monitor site. The District and the Coso Operating Company also planned to develop a mitigation plan to apply water to the

[1] Parallel processing is used for expediting the review of a plan. Parallel processing allows a State to submit the plan prior to actual adoption by the State and provides an opportunity for the State to consider EPA comments prior to submittal of the final plan for final review and action.

monitor site area and to re-vegetate the area. *Id.*

Since our proposed rule, the GBUAPCD has reported that the new location of the contractor's trailer does not require the contractors to drive past the monitor site, the drive area around the monitor site is now covered with gravel to reduce dust and the turning area pavement was enlarged to prevent kicking up dust at the edges. See July 20, 2010 e-mail from Meredith Kurpius, EPA Region 9, Air Quality Assessment Office, to Doris Lo, EPA Region 9, Air Planning Office, Re: Summary of monitoring issues that should be addressed by the Great Basin District. The GBUAPCD has also reported that the Coso Operating Company has begun watering of the area around the Coso Junction monitor site and that a crust is beginning to form which will allow the District to begin collecting valid data on August 1, 2010. See July 28, 2010 e-mail from Ted Schade, Air Pollution Control Officer, GBUAPCD, to Doris Lo, EPA Region 9, Air Planning Office, with attachments. The Coso Operating Company has submitted to the GBUAPCD a dust control plan (or, as referred to in the proposed rule, a mitigation plan) for the Coso Junction monitor area which includes commitments for application and monitoring of gravel, application of water to form a visual crust, monitoring of the visual crust and reapplication of water as necessary, re-vegetation in the fall season in areas that had previously been vegetated, limiting road access to authorized personnel and providing monthly status reports to GBUAPCD through June 2011. See attachment to July 28, 2010 e-mail from Ted Schade, "Coso PM10 Containment Area Fugitive Dust Plan." Moreover, the Coso Operating Company is required by conditions in a permit to operate issued by GBUAPCD to maintain the Coso Junction monitor site and to collect PM–10 samples using EPA-approved reference or equivalent method samplers. See attachment to July 28, 2010 e-mail from Ted Schade, Permit to Operate, Permit Number 234, conditions 27 and 36. Finally, the GBUAPCD plans to install a Web camera to help monitor activities near the monitor site in the future. See July 28, 2010 e-mail from Ted Schade to Doris Lo. EPA will continue to work with the GBUACPD to ensure that the Coso Junction monitor site issues are fully resolved and that the site is maintained in order for the District to meet its commitment to continue daily PM–10 monitoring at the Coso Junction monitoring site in order to verify continued attainment of the PM–10 standard in the CJPA. See 75 FR 36023, 36030.

III. Public Comments and EPA Responses

EPA provided for a 30-day public comment period on our proposed action. This comment period ended on July 26, 2010. We received no comments.

IV. EPA's Final Action

Based on our review of the 2010 Plan submitted by the State, air quality monitoring data, and other relevant materials, EPA believes the State has satisfied all requirements for redesignation of the CJPA to attainment, pursuant to CAA sections 107(d)(3)(E) and 175A. Consequently, EPA is approving the State's request and is redesignating the CJPA to attainment for the PM–10 NAAQS. EPA is also approving the maintenance plan for the CJPA, which includes as a SIP revision GBUAPCD Board Order #080128–01. EPA is also approving the emissions inventory submitted with the maintenance plan as meeting the requirements of CAA section 172(c)(3). Finally, EPA finds that motor vehicle-related PM–10 emissions are insignificant contributors to the area's PM–10 problem; consequently, a regional emissions analysis will not be required for PM–10 in any future transportation conformity determination for the CJPA, as of the effective date of this final rule.

V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For these reasons, these actions:

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 29, 2010.

Jeff Scott,

Acting Regional Administrator, Region 9.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(380) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(380) The following plan was submitted on July 14, 2010, by the Governor's Designee.

(i) Incorporation by reference.

(A) Great Basin Unified Air Pollution Control District.

(*1*) "Board Order #080128–01 Requiring the City of Los Angeles to Undertake Measures to Control PM–10 Emissions from the Dried Bed of Owens Lake," including Attachments A–D, adopted February 1, 2008, and included as Appendix C to the "2010 PM–10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area," adopted May 17, 2010.

(ii) Additional materials.

(A) Great Basin Unified Air Pollution Control District (GBUAPCD).

(*1*) Non-regulatory portions of "The 2010 PM–10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area" (the 2010 Plan), including Appendices A, B, and D, adopted May 17, 2010.

(*2*) Letter dated June 10, 2010 from Theodore D. Schade, GBUAPCD, to Deborah Jordan, United States Environmental Protection Agency Region 9, regarding Coso Junction PM–10 Contingency Measures.

(*3*) GBUAPCD Board Resolution 2010–01, dated May 17, 2010, adopting the 2010 Plan.

(B) California Air Resources Board (CARB).

(*1*) CARB Resolution 10–25, dated June 24, 2010, adopting the 2010 Plan.

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

Subpart C—[Amended]

■ 4. Section 81.305 is amended in the table for "California–PM–10" by revising the entry under Inyo County for the "Coso Junction planning area" to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
Inyo County				
Coso Junction planning area ..... That portion of Inyo County contained within Hydrologic Unit #18090205.	October 4, 2010	Attainment.		

* * * * * * * * * *

* * * * *

[FR Doc. 2010–21960 Filed 9–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0910; FRL–8842–7]

Thiabendazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of thiabendazole, and its metabolites, benzimidazole (free and conjugated), [2-(4-thiazolyl) benzimidazole], in or on corn. Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 3, 2010. Objections and requests for hearings must be received on or before November 2, 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–2009–0910. 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:

Janet Whitehurst, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6129; e-mail address: *whitehurst.janet@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–2009–0910 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 November 2, 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–2009–0910, 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 June 6, 2010 (75 FR 35804) (FRL–8831–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F7730) by Syngenta Crop Science. The petition requested that 40 CFR 180.242 be amended by establishing tolerances for residues of the fungicide thiabendazole, and its metabolites, benzimidazole (free and conjugated), [2-(4-thiazolyl) benzimidazole], in or on corn grain and other corn commodities at 0.01 parts per million (ppm). That notice referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for thiabendazole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiabendazole 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.

The target organs for thiabendazole toxicity are the liver and thyroid. Effects to these organs were observed in multiple studies and across species. Thiabendazole causes thyroid tumors in male rats through an established non-linear mode of action involving perturbation of thyroid hormone synthesis. Accordingly, thiabendazole is classified as "not likely to be carcinogenic to humans at doses that do not alter rat thyroid hormone homeostasis." There is no evidence of neurotoxicity in the existing database,

and in developmental and reproductive studies, effects to offspring are observed only at doses toxic to the parents. There are no effects seen in the toxicity database that would be attributable to a single exposure of thiabendazole. The Agency is regulating chronic dietary risk with a chronic RfD at a dose below which thyroid hormone balance is not impacted and consequently is protective of potential carcinogenic effects.

Specific information on the studies received and the nature of the adverse effects caused by thiabendazole 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 *http://www.regulations.gov* in the document entitled "Thiabendazole Human Health Risk Assessment for Seed Treatment Use on Corn," pages 6–11 in docket ID number EPA–HQ–OPP–2007–0546.

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 thiabendazole used for human risk assessment is shown in the following Table 1.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR THIAZBENDAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	Point of Departure	Uncertainty/FQPA Factors	Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including females 13–49 years)	No effect attributable to a single dose seen in the database			
Chronic dietary	NOAEL = 10 mg/kg/day	UF_A = 3x UF_H = 10x FQPA = UF_{DB} = 10x	cRfD = 0.033 mg/kg/day cPAD = 0.033 mg/kg/day	2-Year Feed/Chronic Carcinogenicity in the Rat LOAEL = 30 mg/kg/day based on decreased body weight gains and histopathological changes in liver and thyroid
Incidental oral (ST/IT)	NOAEL = 10 mg/kg/day	UF_A = 3x UF_H = 10x FQPA = UF_{DB} = 10x	LOC for MOE = 300	Subchronic oral toxicity study - rat LOAEL = 40 mg/kg/day based on reduced body weight gains and histopathological changes in the bone marrow, liver and thyroid
Dermal short-term (1-30 days) DAF = 0.5%	NOAEL= 10 mg/kg/day	UF_A = 3x UF_H = 10 FQPA = UF_{DB} = 10x	Occupational and residential LOC for MOE = 300	Subchronic oral toxicity study - rat LOAEL = 40 mg/kg/day based on reduced body weight gains and histopathological changes in the bone marrow, liver and thyroid
Inhalation short-term (1–30 days)	NOAEL = 10 mg/kg/day	UF_A = 3x UF_H =10x FQPA = UF_{DB} = 10x	Occupational LOC for MOE = 300	Subchronic oral toxicity study - rat LOAEL = 40 mg/kg/day based on reduced body weight gains and histopathological changes in the bone marrow, liver and thyroid

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR THIAZBENDAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/Scenario	Point of Departure	Uncertainty/FQPA Factors	Level of Concern for Risk Assessment	Study and Toxicological Effects
Dermal intermediate-term (1-6 mos) DAF = 0.5%*	NOAEL = 10 mg/kg/day	UF_A = 3x UF_H = 10x FQPA = UF_{DB} = 10x	Occupational LOC for MOE = 300	Subchronic oral toxicity study - rat LOAEL = 40 mg/kg/day based on reduced body weight gains and histopathological changes in the bone marrow, liver and thyroid
Inhalation intermediate-term (1-6 mos)	NOAEL = 10 mg/kg/day	UF_A = 3x UF_H = 10x FQPA = UF_{DB} = 10x	Occupational LOC for MOE = 300	Subchronic oral toxicity study - rat LOAEL = 40 mg/kg/day based on reduced body weight gains and histopathological changes in the bone marrow, liver and thyroid
Cancer (all routes)	Not likely to be carcinogenic to humans at doses that do not alter rat thyroid hormone homeostasis			

UF_A = extrapolation from animal to human (interspecies).
UF_H = potential variation in sensitivity among members of the human population (intraspecies).
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.

The overall composite uncertainty factor for assessing thiabendazole risk is 300X. That is based on a 10X for intraspecies variability among humans, 3X for interspecies pharmacokinetic differences between humans and rats, and 10X for FQPA safety factor for database uncertainty. The 3X interspecies factor was chosen because the endpoint used for the Point of Departure is a thyroid effect and adult rats are known to be more sensitive pharmacodynamically to thyroid toxicants than humans. Focusing on the thyroid effects will produce the most protective PAD despite the fact that a reduced interspecies factor is appropriate as to this effect.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiabendazole, EPA considered exposure under the petitioned-for tolerances as well as all existing thiabendazole tolerances in 40 CFR 180.242. EPA assessed dietary exposures from thiabendazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No such effects were identified in the toxicological studies for thiabendazole; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* Thiabendazole chronic dietary exposure assessments were conducted using the DEEM-FCID™ (ver. 2.03) which incorporates consumption data from the United States Department of Agriculture (USDA) Continuing Survey of Food Intake by Individuals (CSFII) (1994–1996 and 1998). In estimating residue levels on food, EPA assumed residues in corn were at tolerances levels. For other commodities, EPA estimated residue levels based on residue monitoring data. EPA also used percent crop treated (PCT) data on some commodities.

iii. *Anticipated residue and 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.

The following PCT were used in the assessment:

- Apple 30%.
- Orange 20%.
- Pear 45%.
- Potato 1%.
- Soybeans 1%.
- Strawberry 6.3% imported.
- Sweet potato 1%.
- Wheat 1%.

In most cases, EPA uses available data from USDA/National Agricultural

Statistics Service (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 above 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 thiabendazole may be applied in a particular area.

iv. *Cancer*. EPA has concluded that thiabendazole does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for thiabendazole drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiabendazole. 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*.

A Tier 2 drinking water assessment was conducted for thiabendazole in surface water and Tier 1 in ground water for the proposed new seed treatment product on corn. The annual mean concentration of 0.0000048 ppm was used in the chronic dietary exposure analysis. Drinking water concentrations from ground water sources were estimated, but were lower than that estimated concentration from surface water, so the estimated concentration from surface water sources was used in the dietary exposure analysis.

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).

Thiabendazole is currently registered for the following uses that could result in residential exposures: paint and sponges. These residential uses have been assessed and aggregated with the food and water exposures. EPA assumed that 5% of the thiabendazole on sponges is transferred to the surface being wiped (such as counters, tables, floors) each day. 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."

EPA has not found thiabendazole to share a common mechanism of toxicity with any other substances, and thiabendazole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiabendazole 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 prenatal developmental toxicity studies in rats, rabbits, and mice and in the 2-generation reproduction study in rats, effects in the fetuses or neonates occurred at or above doses that caused maternal or parental toxicity.

3. *Conclusion*. EPA is retaining a FQPA factor of 10X based on the following findings:

i. The database for thiabendazole is complete except for a developmental thyroid study and data needed for the new data requirements including an immunotoxicity study and the neurotoxicity screening battery. Pending the outcome of the developmental thyroid toxicity study, there is uncertainty with respect to the effect of thiabendazole in developing offspring. There is evidence of thyroid toxicity following subchronic and chronic exposures to rats characterized as histopathological changes in the thyroid in multiple studies in rats. Disruption of thyroid homeostasis is the initial, critical effect that may lead to adverse effects on the developing nervous system. Thus, the absence of the developmental thyroid study raises concern whether infants and children are sufficiently protected from developmental effects. The developmental thyroid toxicity study will better address this concern than a developmental neurotoxicity study. The absence of neurotoxicity studies (acute, subchronic, and developmental) raise relatively low concern because: (1) Thiabendazole has shown no indication of neurotoxicity in relevant studies, and; (2) to the extent that thiabendazole's thyroid effects may have neurological effects on the young, the nature of the thyroid effects (and the potential for any resulting neurological effects on the young) will be addressed by the developmental thyroid study. The

absence of the immunotoxicity study raises relatively low concern because there are no indications in the available studies that organs associated with immune function, such as the thymus and spleen, are affected by thiabendazole.

ii. There is no evidence that thiabendazole 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.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on PCT and anticipated residues primarily from Pesticide Data Program (PDP) data and some tolerance-level residues. These data are reliable and will not underestimate the exposure and risk. EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to thiabendazole 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 thiabendazole.

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 population adjusted dose (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, thiabendazole 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 thiabendazole from food and water will utilize 1.4% of the cPAD occupied for the U.S. population. The most highly exposed subpopulation was all infants at 4.6% cPAD.

3. *Short- and intermediate-term risk.* Short-term 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). To assess short-term and intermediate-term aggregate risk likely to result from the new and existing thiabendazole uses, EPA combined average food and water exposures with estimates of residential exposure for both adult painters and adult females and small children exposed to surfaces cleaned with treated sponges.

No risks of concern were seen for adult painters. A potential risk of concern would be the use of thiabendazole treated sponges, if the Agency assumes that 100% of the thiabendazole on a treated sponge is transferred to surfaces each day. It is very unlikely that a sponge would release all of the thiabendazole used to treat it in a single day, and the user would use a new sponge every day. Since this is a very unrealistic assumption, a second aggregate assessment was conducted assuming that 100% of the thiabendazole on a treated sponge is transferred to surfaces over 20 days and that each 20 days the user would use a new sponge. This assumption is still conservative because: (1) Sponges will generally be used much longer than 20 days; (2) it is very unlikely that 100% of the thiabendazole would be released from the sponge in such a short period given that environmental fate data show thiabendazole to have low water solubility indicating that thiabendazole will bind strongly to the sponge; and (3) it is very unlikely that 100% of any released thiabendazole would be transferred to countertops because this assumption does not account for any thiabendazole that is washed down the sink or that normally degrades. With this assumption, none of the aggregate exposures represent risks of concern, as all MOEs are greater than the target MOE of 300.

A summary of the short-term and intermediate-term aggregate risk for thiabendazole used in the human risk assessment is shown in Tables 2 and 3 of this unit.

TABLE 2.—SHORT-TERM AND INTERMEDIATE-TERM AGGREGATE RISK FOR RESIDENTIAL PAINTER

Population Subgroup	Average Food and Water Exposure (mg/kg/day)	Residential Exposure[1] (mg/kg/day)	Aggregate MOE (food and residential)[2]
U.S. Population	0.000451	0.0046	2000
Youth (13–19 yrs)	0.000289	0.0046	2000
Adults (20–49 yrs)	0.000308	0.0046	2000
Adults (50 + yrs)	0.000331	0.0046	2000
Females (13–49 yrs)	0.000333	0.0046	2000

[1] Residential Exposure = Dermal exposure + Inhalation Exposure.
[2] (Avg Food Aggregate MOE = NOAEL (10 mg/kg/day and Water Exposure + Residential Exposure).

TABLE 3.–SHORT-TERM AND INTERMEDIATE-TERM AGGREGATE RISK CALCULATIONS FOR SPONGE USAGE

Population Subgroup	Average Food and Water Exposure (mg/kg/day)	Residential Exposure[1] (mg/kg/day)	Aggregate MOE (food and residential)[2]
Fraction of Thiabendazole Transferred Daily From Sponge to Surface = 100%			
Children (3–5 yrs)	0.001252	0.08	120
Females (13–49 yrs)	0.000333	0.02	500
Fraction of Thiabendazole Transferred From Sponge to Surface = 5%			
Children (3–5 yrs)	0.001252	0.004	2300
Females (13–49 yrs)	0.000333	0.001	4500

[1] Residential Exposure = Dermal exposure + Inhalation Exposure.
[2] Aggregate MOE = NOAEL (10 mg/kg/day) ÷ (Average Food & Water Exposure plus Residential Exposure).

5. *Aggregate cancer risk for U.S. population*. Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, thiabendazole is not expected to pose a cancer risk to humans.

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 thiabendazole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (spectrophotofluorometric, Methods I, A, B and C) is available to enforce the tolerance expression. In all of the methods, residues are extracted with ethyl acetate, and the extracts are purified by washing with dilute NaOH and/or HCl.

An high-performance liquid chromatography (HPLC) method with fluorescence detection (FLD) is available for the enforcement of tolerances for residues of free and conjugated benzimidazole. This method is listed in the U.S. EPA Index of Residue Analytical Methods under thiabendazole as Study No. 93020 (MRID 43328302).

In addition, the analytical method used in this petition may be used for enforcement. This sample is extracted and hydrolized and analyzed by liquid chromatography/mass spectrometry (LC/MS/MS). The method limit of quantation (LOQ) is 0.01 ppm, and the limit of detection (LOD) is 0.004 ppm. The method was adequately validated using samples of field corn forage, grain, and stover, and sweet corn forage and K+CWHR fortified with each analyte at 0.01, 0.05, and 0.1 ppm. Acceptable concurrent recovery data for the method were also submitted and achieved.

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 any MRLs for thiabendazole.

V. Conclusion

Therefore, tolerances are established for residues of thiabendazole, and its metabolites, benzimidazole (free and conjugated), [2-(4-thiazolyl) benzimidazole], in or on corn grain and other corn commodities at 0.01 ppm.

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 20, 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 180.242 is amended by alphabetically adding the following commodities to the table in paragraph (a)(1) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * * (1) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* *	* *	*
Corn, field, forage	0.01	None
Corn, field, grain	0.01	None
Corn, field, stover	0.01	None
Corn, pop, forage	0.01	None
Corn, pop, grain	0.01	None
Corn, pop, stover	0.01	None
Corn, sweet, forage	0.01	None
Corn, sweet, kernels plus cop with husks removed	0.01	None
Corn, sweet, stover	0.01	None
* *	* *	*

* * * * *

[FR Doc. 2010–22121 Filed 9–2–10; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123; DA 10–1235]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of waiver.

SUMMARY: In this document, the Commission extends for an additional year current waivers of certain Telecommunications Relay Services (TRS) mandatory minimum standards for Video Relay Service (VRS) and Internet Protocol Relay (IP Relay). The waived TRS mandatory minimum standards are: One-line voice carry over (VCO); VCO-to-teletypewriter (TTY); VCO-to-VCO; one-line hearing carry over (HCO); HCO-to-TTY; HCO-to-HCO; call release; speech-to-speech (STS); pay-per-call (900) calls; types of calls; and equal access to interexchange carriers requirements. The Commission also extends for one year a requirement for default Internet-based TRS providers that are unable to meet such standards for newly-registered Internet-based TRS users who port their customer premises equipment (CPE) from a former default provider. The Commission extends the waivers for one year because the record demonstrates that it is technologically infeasible for VRS and IP Relay providers to offer these services at this time. All of these waivers are conditioned on the filing of a report, due April 16, 2011, addressing whether it is necessary for the waivers to remain in effect.

DATES: DA 10–1235 became effective on June 30, 2010. The waivers of certain TRS mandatory minimum standards for VRS and IP Relay will expire on July 1, 2011, or until the Commission addresses pending petitions regarding CPE portability, which ever comes first.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties may submit documentation related to the waivers, identified by [CG Docket No. 03–123 and/or DA 10–1235], by mail, to Dana Wilson, Consumer and Governmental Affairs Bureau, Disability Rights Office, Room 3–C418.

FOR FURTHER INFORMATION CONTACT: Gregory Hlibok, (202) 559–5158 (voice/videophone), or e-mail *Gregory.Hlibok@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 10–1235, adopted June 30, 2010, released June 30, 2010 extending certain waivers for TRS mandatory minimum standards to July 1, 2011. The full text of document DA 10–1235, and copies of any subsequently filed documents in this matter, will be available for public inspection and copies during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. DA 10–1235, and copies of subsequently filed documents in this matter also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site, *http://www.bcpiweb.com* or by calling 1–800–378–3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). The Commission's document DA 10–1235 can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb/dro.trs.html*.

Synopsis

One-line VCO, VCO-to-TTY, and VCO-to-VCO. One-line VCO is a type of traditional TTY-based TRS that can be used by persons with a hearing disability who can speak. The VCO user speaks directly to the other party to the call, and the CA types the response back

so the VCO user can read it in text. A VCO-to-TTY call allows a relay conversation to take place between a VCO user and a TTY user; a VCO-to-VCO call allows a relay conversation to take place between two VCO users.

The Commission extends the waivers of these requirements for one year for VRS and IP Relay because the most recent annual waiver reports reflect that the Internet cannot support the voice leg of a VCO call with the necessary call quality. These waivers are again conditioned on the filing of a report, due April 16, 2011, addressing whether it is necessary for the waivers to remain in effect, and whether a technical fix is imminent.

One-line HCO, HCO-to-TTY, and HCO-to-HCO. One-line HCO is a type of traditional TTY-based TRS that can be used by persons with a speech disability who can hear. The HCO user types what he or she wishes to say to the called party, and the CA voices what the HCO user has typed. The HCO user then listens to what the called party says in response. An HCO-to-TTY call allows a relay conversation to take place between a HCO user and a TTY user; an HCO-to-HCO call allows a relay conversation to take place between two HCO users. The Commission extends the waivers of these requirements for one year because the most recent annual waiver reports reflect that VRS and IP Relay providers cannot provide these services.

Call Release. Call release allows a CA to set up a TTY-to-TTY call that, once established, does not require the CA to relay the conversation. In other words, this feature allows the CA to sign-off or be "released" from the telephone line, without triggering a disconnection between two TTY users, after the CA connects the originating TTY caller to the called party's TTY through, *e.g.,* a business switchboard. The Commission extends the waiver of this requirement for one year due to technological infeasibility.

Pay-Per-Call (900) calls. Pay-per-call (900) calls are calls that the person making the call pays for at a charge greater than the basic cost of the call. The Commission extends the waiver of this requirement for VRS and IP Relay for one year because the providers' annual waiver reports reflect there is still no billing mechanism available to handle the charges associated with pay-per-call calls.

Types of Calls (Operated Assisted Calls and Long Distance Calls. Commission rules require TRS providers to handle any type of call routinely handled by common carriers. The requirement that VRS and IP Relay providers offer operator-assisted calls and bill certain types of calls to the end user was waived because providers could not determine when a call was local or long distance. VRS and IP Relay providers are required to allow calls to be placed using calling cards and/or provide free long distance during the waiver period. The Commission extends the waiver of this requirement for VRS and IP Relay for one year because the providers' annual waiver reports reflect that it remains technologically infeasible for providers to bill for these calls, since one leg of the call is transmitted over the Internet.

Equal Access to Interexchange Carriers. The TRS rules require that providers offer TRS users their interexchange carrier of choice to the same extent that such access is provided to voice users. The Commission has waived this requirement for VRS providers, noting that it was not possible to determine if a call is long distance and, in any event, the providers could not automatically route the calls to the caller's long distance carrier of choice. This waiver is contingent on VRS providers providing long distance services free of charge to the caller. The Commission extends the waiver of this requirement for VRS for one year because the providers cannot determine whether a particular call is local or long distance, and so they cannot offer carrier of choice. Instead, providers do not charge consumers for long distance service. The Commission waived this requirement for IP Relay indefinitely.

Speech-to-Speech. The Commission recognized STS as a form of TRS and required that it be offered as a mandatory service. The Commission waived this requirement indefinitely for VRS, noting that STS is a speech-based service, whereas VRS is a visual service using interpreters to interpret in sign language over a video connection. The requirement for IP Relay is waived until July 1, 2010, because of technical difficulties with respect to voice-initiated calls and the Internet. The Commission extends the waiver of this requirement for IP Relay for one year because providers of this service continue to report erratic voice quality.

Waiver for Default Providers Using Other Providers' CPE

The Commission extends the waiver of certain mandatory minimum standards for default Internet-based TRS providers that are unable to meet such standards for newly-registered Internet-based TRS users who port their customer premises equipment (CPE) from a former default provider, in those instances where the new default provider does not have access to the technical information about such CPE that would be necessary in order to comply with these standards. Specifically, the Commission extends the waiver for operational requirements, emergency handling requirements, and point-to-point calling associated with such porting.

All of these waivers are conditioned on the filing of a report, due April 16, 2011, addressing whether it is necessary for the waivers to remain in effect.

Mark Stone,

Deputy Bureau Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission.

[FR Doc. 2010–22122 Filed 9–2–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. NHTSA–2010–0017]

RIN 2127–AK69

Insurer Reporting Requirements; List of Insurers Required To File Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends regulations concerning Insurer Reporting Requirements. The regulations specify the requirements for annual insurer reports and lists in appendices those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices must file three copies of its report for the 2007 calendar year before October 25, 2010. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25.

DATES: This final rule becomes effective on October 4, 2010. Insurers listed in the appendices are required to submit reports on or before October 25, 2010. If you wish to submit a petition for reconsideration of this rule, your petition must be received by October 18, 2010.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Room W41–307, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., West Building, Room W43–439, Washington, DC 20590, by electronic mail to *carlita.ballard@dot.gov*. Ms. Ballard's telephone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 49 U.S.C. 33112, *Insurer reports and information,* NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Pursuant to 49 U.S.C. Section 33112(f), the following insurers are subject to the reporting requirements:

(1) Issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States;

(2) Issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one state and;

(3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency exempted certain passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-by-state basis. The term "small insurer" is defined, in Section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under state law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular state, the insurer must report about its operations in that state.

In the final rule establishing the insurer reports requirement (49 CFR Part 544; 52 FR 59, January 2, 1987), NHTSA exercised its exemption authority by listing in Appendix A each insurer that must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting, instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally, is administratively simpler, since the former group is much smaller than the latter. In Appendix B, NHTSA lists those insurers required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those states. In the January 1987 final rule, the agency stated that it would update Appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by insurance companies to A.M. Best, which A.M. Best [1] publishes in its *State/Line Report* each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA grants exemptions to self-insurers, *i.e.,* any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(b)(1) and (f). Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer;

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles, because it believed that the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added Appendix C, consisting of an annually updated list of the self-insurers subject to Part 544. Following the same approach as in Appendix A, NHTSA included, in Appendix C, each of the self-insurers subject to reporting instead of the self-insurers which are exempted. NHTSA updates Appendix C based primarily on information from *Automotive Fleet Magazine* and *Auto Rental News.*[2]

C. When a Listed Insurer Must File a Report

Under Part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year. Thus, any insurer listed in the appendices must file a report before October 25, 2010, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

II. Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

On June 21, 2010, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and C required to file reports (75 FR 34966). Appendix A lists insurers that must report because each had 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a final rule published on January 12, 2010 (75 FR 1548). Based on the 2007 calendar year market share data from A.M. Best, NHTSA proposed to make no change to Appendix A.

Appendix B lists insurers required to report because each insurer had a 10 percent or greater market share of motor vehicle premiums in a particular State. Based on the 2007 calendar year data for market shares from A.M. Best, we proposed to add Balboa Insurance Group of South Dakota to Appendix B.

2. Rental and Leasing Companies

Appendix C lists rental and leasing companies required to file reports. Subsequent to publishing the January 12, 2010 final rule (see 75 FR 1548), the agency was informed by Enterprise Rent-A–Car company (Enterprise), that

[1] A.M. Best Company is a well-recognized source of insurance company ratings and information. 49 U.S.C. 33112(i) authorizes NHTSA to consult with public and private organizations as necessary.

[2] Automotive Fleet Magazine and Auto Rental News are publications that provide information on the size of fleets and market share of rental and leasing companies.

it purchased Vanguard Car Rental, USA (Vanguard) in August of 2007, and that Vanguard will no longer be reporting as a separate entity because it merged with Enterprise in August of 2009. Specifically, Enterprise stated that all reporting would be performed by its parent company, Enterprise Holdings, Inc. for all three brands, National, Alamo and Enterprise. Therefore, NHTSA proposed to remove Vanguard Car Rental USA from the list of insurers required to meet the reporting requirements.

Public Comments on Final Determination

Insurers of Passenger Motor Vehicles

The agency received no comments in response to the NPRM. Therefore, this final rule adopts the proposed changes to Appendices B and C. Accordingly, NHTSA has determined that each of the 19 insurers listed in Appendix A, each of the nine insurers listed in Appendix B and each of five companies listed in Appendix C are required to submit an insurer report on its experience for calendar year 2007 no later than October 25, 2010, and set forth the information required by part 544. As long as these insurers and companies remain listed, they would be required to submit reports before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Submission of Theft Loss Report

Passenger motor vehicle insurers listed in the appendices can forward their theft loss reports to the agency in several ways:

a. *Mail:* Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, Department of Transportation, NHTSA, West Building, 1200 New Jersey Avenue, SE., NVS–131, Room W43–439, Washington, DC 20590.

b. *E–Mail: carlita.ballard@dot.gov;* or

c. *Fax:* (202) 493–2990.

Theft loss reports may also be submitted to the docket electronically [identified by Docket No. NHTSA–2010–0017] by:

d. *logging onto the Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for filing the document electronically.

Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866, Regulatory Planning and Review. NHTSA has considered the impact of this final rule and determined that the action is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This final rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this rule, reflecting current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing Part 544 (52 FR 59; January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. The cost estimates in the 1987 final regulatory evaluation should be adjusted for inflation, using the Bureau of Labor Statistics Consumer Price Index for 2007 (*see http://www.bls.gov/cpi*). The agency estimates that the cost of compliance is $50,000 (1987 dollars) for any insurer added to Appendix A, $20,000 (1987 dollars) for any insurer added to Appendix B, and $5,770 (1987 dollars) for any insurer added to Appendix C. This final rule will make no change to Appendix A, add one company to Appendix B, and remove one company from Appendix C. Therefore, the net effect of this final rule is an increased cost of $14,220 (1987 dollars) to insurers as a group.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation were placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Technical Reference Division, 1200 New Jersey Avenue, SE., East Building (Ground Floor), Room E12–100, Washington, DC 20590, or by calling (202) 366–2588.

2. Paperwork Reduction Act

The information collection requirements in this final rule were submitted and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The existing information collection indicates that the number of respondents for this collection is thirty-three, however, the actual number of respondents fluctuates from year to year. Therefore, because the number of respondents required to report for this final rule does not exceed the number of respondents indicated in the existing information collection, the agency does not believe that an amendment to the existing information collection is necessary. This collection of information is assigned OMB Control Number 2127–0547 ("Insurer Reporting Requirements.")

3. Regulatory Flexibility Act

The agency also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies listed on Appendices A, B or C are construed to be a small entity within the definition of the RFA. "Small insurer" is defined, in part under 49 U.S.C. 33112, as any insurer whose premiums for all forms of motor vehicle insurance account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States or any insurer whose premiums within any State account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice exempts all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency exempts all "self insured rental and leasing companies" that have fleets of fewer than 50,000 vehicles. Any self-insured rental and leasing company too large to meet that criterion is not a small entity.

4. Federalism

This action has been analyzed according to the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

6. Civil Justice Reform

This final rule does not have any retroactive effect, and it does not preempt any State law, 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, and section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

7. 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.

8. Plain Language

Executive Order 12866 requires 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 proposal clearly stated?

☐ Does the proposal contain technical language or jargon that is not 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 proposal easier to understand?

If you have any responses to these questions, you can forward them to me several ways:

a. *Mail:* Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, 1200 New Jersey Avenue, SE., NVS–131, Room W43–439, Washington, DC 20590.

b. *E-mail: carlita.ballard@dot.gov;* or *Fax:* (202) 493–2990.

List of Subjects in 49 CFR Part 544

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR part 544 is amended as follows:

PART 544—[AMENDED]

■ 1. The authority citation for part 544 continues to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

■ 2. In § 544.5, paragraph (a), the second sentence is revised to read as follows:

§ 544.5 General requirements for reports.

(a) * * * This report shall contain the information required by § 544.6 of this part for the calendar year 3 years previous to the year in which the report is filed (*e.g.,* the report due by October 25, 2010 will contain the required information for the 2007 calendar year).

* * * * *

■ 3. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Allstate Insurance Group
American Family Insurance Group
American International Group
Auto Club Enterprise Insurance Group
Auto-Owners Insurance Group
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
California State Auto Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Metropolitan Life Auto & Home Group
Mercury General Group
Nationwide Group
Progressive Group
Safeco Insurance Companies
State Farm Group
Travelers Companies
USAA Group
Farmers Insurance Group

■ 4. Appendix B to part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Auto Club (Michigan)
Balboa Insurance Group (South Dakota) [1]
Commerce Group, Inc. (Massachusetts)
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Safety Group (Massachusetts)
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

[1] Indicates a newly listed company which must file a report beginning with the report due October 25, 2010.

■ 5. Appendix C to part 544 is revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Cendant Car Rental
Dollar Thrifty Automotive Group
Enterprise Holding Inc./Enterprise Rent-A-Car Company [1]
Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)
U-Haul International, Inc. (Subsidiary of AMERCO)

[1] Enterprise Rent-A-Car Company acquired ownership of Vanguard Car Rental USA in August 2007.

Issued on: August 30, 2010.

Joseph S. Carra,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2010–21945 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 0907211157–0327–03]

RIN 0648–AX76

Fisheries in the Western Pacific; Community Development Program Process

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

ACTION: Final rule.

SUMMARY: This final rule establishes eligibility requirements and procedures for reviewing and approving community development plans for western Pacific fisheries. The intent of this final rule is to promote the participation of island communities in fisheries that they have traditionally depended upon, but in which they may not have the capabilities to support continued and substantial participation.

DATES: This rule is effective October 4, 2010, except for § 665.20(c), which contains information collection requirements that have not yet been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the control number and the effective date for that information collection will be published in the **Federal Register**.

ADDRESSES: The background and details of the community development plan process are described in Amendment 1 to the fishery ecosystem plans for American Samoa, Hawaii, the Mariana Archipelago, and western Pacific pelagic fisheries (the amendment is identical for each plan), which is available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, attention Michael D. Tosatto, 1601 Kapiolani

Blvd., Honolulu, HI 96814, and by e-mail to OIRA__Submission@omb.eop.gov, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS Pacific Islands Region (PIR), Sustainable Fisheries, tel 808–944–2108.

SUPPLEMENTARY INFORMATION: This document is also accessible at *www.gpoaccess.gov/fr*.

Section 305(i)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Council and the Secretary of Commerce (Secretary), through NMFS, to establish a western Pacific community development program for any fishery under the authority of the Council and NMFS. The intent of the program is to provide western Pacific communities access to fisheries that they have traditionally depended upon, but may not have the capabilities to support continued and substantial participation in, possibly due to economic, regulatory, or other barriers.

In 2002, NMFS published the eligibility criteria for participating in the western Pacific community development program (67 FR 18512; April 16, 2002), but did not establish a mechanism to solicit and review development plans under the program. To address this, the Council prepared, and the Secretary approved, Amendment 1 to the American Samoa, Hawaii, Marianas, and western Pacific pelagic fishery ecosystem plans (FEPs) to establish this process.

This final rule codifies the eligibility criteria for participating in the program, and the required content of each community development plan. The Council will review each plan to ensure that it meets the intent of Section 305(i)(2) of the Magnuson-Stevens Act, and that it contains all required information. If the requirements are met, the Council will forward the plan to the NMFS Regional Administrator for review. NMFS will then publish a notice in the **Federal Register** to solicit public review of, and comment on, the community development plan and any associated environmental review documents. If the plan is approved, NMFS will publish a notice in the **Federal Register**, describing the plan's authorized activities, and any limiting terms and conditions to ensure proper management and monitoring of the fishing activity.

Additional background information on this final rule may be found in the preamble to the proposed rule published on June 16, 2010 (75 FR 34088), and is not repeated here.

The public comment period for the proposed rule (75 FR 34088, June 16, 2010) ended on July 20, 2010. NMFS received one comment and responds as follows:

Comment: The U.S. Department of the Interior, Fish and Wildlife Service (FWS), Pacific Reefs National Wildlife Refuge Complex, commented that the FWS has regulatory authority within eight national wildlife refuges in the Pacific Remote Island Areas (PRIA), which are closed to commercial fishing. In 2002, NMFS and the FWS agreed that fishing managed through a NMFS fishery management plan would not be allowed within a national wildlife refuge unless specifically authorized by FWS, regardless of whether the refuge was established by action of the President or Secretary of the Interior. The agreement came about as a result of FWS concerns associated with the Fishery Management Plan for Coral Reef Ecosystems of the Western Pacific Region and its final Environmental Impact Statement. As part of this agreement, NMFS published regulations in 50 CFR 660.601. The FWS recommends clarifying that fishing is not allowed within the boundary of a national wildlife refuge unless specifically authorized by the FWS.

Response: The referenced 2002 agreement was limited in scope to the Coral Reef Ecosystems Fishery Management Plan and was codified at 50 CFR 600.601. In a final rule published on January 14, 2010 (75 FR 2198), NMFS redesignated the fishing regulations for coral reef ecosystem species in national wildlife refuges from 50 CFR 600.601 to 50 CFR 665.123 (American Samoa), 50 CFR 665.223 (Hawaii), 50 CFR 665.423 (Marianas), and 50 CFR 665.623 (PRIA). The prohibition on fishing for coral reef ecosystem species without FWS permission remains in the regulations. Under the FEP amendments, this final rule establishes only community development program procedures and administration as described in the proposed rule, and does not alter or amend existing agency authorities.

Changes from the Proposed Rule

In § 665.20(e)(1), (2), and (4), regarding the review and approval process, the regulatory language is clarified for internal consistency.

Classification

The Regional Administrator, PIR, NMFS, determined that this final rule is necessary for the conservation and management of western Pacific fisheries, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required, and none was prepared.

This final rule contains collection-of-information requirements subject to the PRA. These requirements have not yet been approved by OMB, but such approval is expected in the near future. NMFS will publish a notice when these requirements are cleared by OMB and are, therefore, effective (see **DATES**).

The public reporting burden for developing and submitting a development plan is estimated to average six hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *OIRA__Submission@omb.eop.gov*, or fax to 202–395–7285.

Because approved plans may be subject to additional conditions, this final rule also contains collection-of-information requirements subject to the PRA that have been previously approved by OMB. NMFS estimates that it may receive and process up to five (5) community development plan proposals each year. Therefore, the additional estimated burden on western Pacific community development plan respondents would not exceed the currently-approved burden estimates for the existing PRA collections listed below:

(1) Approved under 0648–0214, 0648–0577, 0648–0584, 0648–0586, and 0649–0589. (a) PIR logbook family of forms estimated at 5 minutes (min) per reporting action; (b) pre-trip and post-landing notifications estimated at 5 min per reporting action; (c) experimental fishing reports estimated at 4 hours (hr) per reporting action; (d) sales and transshipment reports estimated at 5

min per reporting action; (e) report on gear left at sea estimated at 5 min per reporting action; (f) claims for reimbursement for lost fishing time estimated at 4 hr per claim; (g) request for pelagics area closure exemption estimated at 1 hr per request; and (h) observer placement meetings estimated at 1 hr per reporting action. (§§ 665.14, 665.17, 665.105, 665.144, 665.145, 665.205, 665.207, 665.244, 665.247, 665.407, 665.444, 665.445, 665.606, 665.644, 665.645, 665.803, and 665.808.)

(2) Approved under 0648–0360, 0648–0361, 0648–0584, 0648–0586, and 0648–0589. PIR gear marking and vessel identification (a) estimated at 45 min to 1 hr 15 min per vessel for vessel identification, and (b) estimated at 2 min for each gear marking. (§§ 665.16, 665.128, 665.228, 665.246, 665.428, 665.628, and 665.804.)

(3) Approved under 0648–0441, 0648–0519, and 0648–0584. PIR vessel monitoring system (a) installation, estimated at 4 hr per reporting action; (b) repair and maintenance, estimated at 2 hr per reporting action; and (c) hourly automated position reports, estimated at 24 sec per day. (§ 665.19.)

(4) Approved under 0648–0456. PIR seabird interaction reporting (a) at-sea notification, estimated at 1 hr per reporting action; (b) reporting on recovery data form, estimated at 1 hr per reporting action; and (c) specimen tagging, estimated at 30 min per reporting action. (§ 665.815.)

(5) Approved under 0648–0462. PIR coral reef logbook reporting (a) at-sea notification, estimated at 3 min per reporting action; (b) logbook reporting, estimated at 30 min per reporting action; and (c) transshipment reports, estimated at 15 min per reporting action. (§§ 665.14, 665.126, 665.226, and 665.426.)

(6) Approved under 0648–0463. PIR coral reef special permit (a) application, estimated at 2 hr per application; and (b) special permit appeals, estimated at 3 hr per appeal. (§§ 665.124, 665.224, 665.424, and 665.624.)

(7) Approved under 0648–0490, 0648–0577, 0648–0584, 0648–0586, and 0649–0589: (a) PIR permit family of forms estimated at 30 min per permit action; (b) experimental fishing permits, estimated at 2 hr per application; and (c) appeals from permit actions estimated at 2 hr per permit appeal. (§§ 665.13, 665.17, 665.142, 665.162, 665.203, 665.242, 665.262, 665.404, 665.442, 665.462, 665.603, 665.642, 665.662, 665.801, and 665.807.)

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 665

Community development, Fisheries, Fishing, Western and central Pacific.

Dated: August 30, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries,National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 665 is amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

l. The authority citation for part 665 continues to read as follows:

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

■ 2. In part 665, add a new § 665.20 to subpart A read as follows:

§ 665.20 Western Pacific Community Development Program.

(a) *General.* In accordance with the criteria and procedures specified in this section, the Regional Administrator may authorize the direct or incidental harvest of management unit species that would otherwise be prohibited by this part.

(b) *Eligibility.* To be eligible to participate in the western Pacific community development program, a community must meet the following criteria:

(1) Be located in American Samoa, Guam, Hawaii, or the Northern Mariana Islands (collectively, the western Pacific);

(2) Consist of community residents descended from aboriginal people indigenous to the western Pacific who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the western Pacific;

(3) Consist of individuals who reside in their ancestral homeland;

(4) Have knowledge of customary practices relevant to fisheries of the western Pacific;

(5) Have a traditional dependence on fisheries of the western Pacific;

(6) Are currently experiencing economic or other constraints that have prevented full participation in the western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and

(7) Develop and submit a community development plan to the Council and the NMFS that meets the requirements in paragraph (c) of this section.

(c) *Community development plan.* An eligible community seeking access to a fishery under the authority of the Council and NMFS must submit to the Council a community development plan that includes, but is not limited to, the following information:

(1) A statement of the purposes and goals of the plan.

(2) A description and justification for the specific fishing activity being proposed, including:

(i) Location of the proposed fishing activity.

(ii) Management unit species to be harvested, and any potential bycatch.

(iii) Gear type(s) to be used.

(iv) Frequency and duration of the proposed fishing activity.

(3) A statement describing the degree of involvement by the indigenous community members, including the name, address, telephone and other contact information of each individual conducting the proposed fishing activity.

(4) A description of how the community and or its members meet each of the eligibility criteria in paragraph (b) of this section.

(5) If a vessel is to be used by the community to conduct fishing activities, for each vessel:

(i) Vessel name and official number (USCG documentation, state, territory, or other registration number).

(ii) Vessel length overall, displacement, and fish holding capacity.

(iii) Any valid federal fishing permit number(s).

(iv) Name, address, and telephone number of the vessel owner(s) and operator(s).

(d) *Council review.* The Council will review each community development plan to ensure that it meets the intent of the Magnuson-Stevens Act and contains all required information. The Council may consider advice of its advisory panels in conducting this review. If the Council finds the community development plan is complete, it will transmit the plan to the Regional Administrator for review.

(e) *Agency review and approval.* (1) Upon receipt of a community development plan from the Council, the Regional Administrator will review the

plan for consistency with paragraphs (b), (c), and (d) of this section, and other applicable laws. The Regional Administrator may request from the applicant additional information necessary to make the determinations pursuant to this section and other applicable laws before proceeding with the review pursuant to paragraph (e)(2) of this section.

(2) If the Regional Administrator determines that a plan contains the required information and is consistent with paragraphs (b), (c), and (d) of this section, and other applicable laws, NMFS will publish a notice in the **Federal Register** to solicit public comment on the proposed plan and any associated environmental review documents. The notice will include the following:

(i) A description of the fishing activity to be conducted.

(ii) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the target, incidental, and bycatch species.

(iii) A summary of any regulations that would otherwise prohibit the proposed fishing activity.

(iv) Biological and environmental information relevant to the plan, including appropriate statements of environmental impacts on target and non-target stocks, marine mammals, and threatened or endangered species.

(3) Within 90 days from the end of the comment period on the plan, the Regional Administrator will notify the applicant in writing of the decision to approve or disapprove the plan.

(4) If disapproved, the Regional Administrator will provide the reasons for the plan's disapproval and provide the community with the opportunity to modify the plan and resubmit it for review. Reasons for disapproval may include, but are not limited to, the following:

(i) The applicant failed to disclose material information or made false statements related to the plan.

(ii) The harvest would contribute to overfishing or would hinder the recovery of an overfished stock, according to the best scientific information available.

(iii) The activity would be inconsistent with an applicable law.

(iv) The activity would create a significant enforcement, monitoring, or administrative problem, as determined by the Regional Administrator.

(5) If approved, the Regional Administrator will publish a notice of the authorization in the **Federal Register**, and may attach limiting terms and conditions to the authorization including, but not limited to, the following:

(i) The maximum amount of each management unit species and potential bycatch species that may be harvested and landed during the term of the authorization.

(ii) The number, sizes, names, identification numbers, and federal permit numbers of the vessels authorized to conduct fishing activities.

(iii) Type, size, and amount of gear used by each vessel, including trip limits.

(iv) The times and places where fishing may or may not be conducted.

(v) Notification, observer, vessel monitoring, and reporting requirements.

(f) *Duration.* Unless otherwise specified, and unless revoked, suspended, or modified, a plan may be effective for no longer than five years.

(g) *Transfer.* Plans authorized under this section are not transferable or assignable.

(h) *Sanctions.* The Regional Administrator may revoke, suspend or modify a community development plan in the case of failure to comply with the terms and conditions of the plan, any other applicable provision of this part, the Magnuson-Stevens Act, or other applicable laws.

(i) *Program review.* NMFS and the Council will periodically review and assess each plan. If fishery, environmental, or other conditions have changed such that the plan's goals or requirements are not being met, or the fishery has become in an overfished state or overfishing is occurring, the Regional Administrator may revoke, suspend, or modify the plan.

[FR Doc. 2010–22077 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 75, No. 171

Friday, September 3, 2010

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2010–BT–TP–0026]

RIN 1904–AC29

Energy Efficiency Program: Test Procedure for Televisions; Request for Information and Request for Comments

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

ACTION: Request for information and request for comments.

SUMMARY: The U.S. Department of Energy (DOE) is initiating the rulemaking and data collection process to develop a test procedure for televisions. To inform interested parties and to facilitate this process, DOE has gathered data, identifying several issues associated with the currently available test procedures on which DOE is particularly interested in receiving comment. The issues outlined in this document mainly concern televisions in active mode (they do not, for example, include issues related to low power modes). DOE welcomes written comments from the public on any subject within the scope of this rulemaking (including topics not raised in this request for information).

DATES: DOE will accept written comments, data, and information on this notice, but no later than October 4, 2010.

ADDRESSES: Interested parties may submit comments, identified by docket number EERE–2010–BT–TP–0026 and/or Regulation Identifier Number (RIN) 1904–AC29, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Televisions-2010-TP-0026@ee.doe.gov mailto:* Include docket number EERE–2010–BT–TP–0026 and/or RIN 1904–AC29 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Request for Information for Televisions Test Procedure, Docket No. EERE–2010–BT–TP–0026 and/or RIN 1904–AC29, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Please submit one signed paper original.

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

FOR FURTHER INFORMATION CONTACT: Mr. Victor Petrolati, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–4549. E-mail: *Victor.Petrolati@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. E-mail: *Celia.Sher@Hq.Doe.Gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone (202) 586–2945. E-mail: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Discussion
A. Luminance Level Measurements
1. Luminance Ratio
2. Test Pattern and Measurement Method
3. Measurement Distances and Angles
4. Preset Picture Modes
B. Automatic Brightness Control
1. Room Illuminance
2. Measurement Location and Lighting
C. Signal Source
D. Steady State
E. Three Dimensional (3D) Technology
F. Download Acquisition Mode
G. Internet Connectivity
H. Power Saving Technology
1. Presence Sensor
2. Other Power Saving Technologies
I. Scope of Coverage
III. Public Participation

I. Introduction

DOE adopted a test procedure for televisions (TVs) on June 29, 1979, as described in 44 FR 37938. The test procedure, previously 10 CFR part 430, subpart B, appendix H, was repealed on October 20, 2009, due to petitions from the California Energy Commission (CEC) and the Consumer Electronics Association (CEA) in light of the June 13, 2009 transition from analog to digital broadcast transmissions to televisions (74 FR 53640). As of June 12, 2009, the "Digital Transition and Public Safety Act of 2005" required that all broadcasting stations must transmit in digital to free up analog frequencies for public safety communications. (*http://www.fcc.gov/cgb/consumerfacts/digitaltv.html*) The CEC petitioned for repeal of the regulatory provisions establishing the test procedure and defining "television set," while the CEA petitioned for DOE's adoption of the International Electrochemical Commission's test procedure IEC Standard 62087–2008, "Methods of measurement for the power consumption of audio, video and related equipment." DOE is now taking steps required to assure the test procedure and standards are modernized to be able to capture the energy consumption of current TVs on the market.

The Energy Policy and Conservation Act of 1975, as amended (EPCA) provides DOE the authority to consider and prescribe new energy conservation test procedures for TVs. Title III of EPCA (42 U.S.C. 6291 *et seq.*) sets forth a variety of provisions designed to improve energy efficiency. Part A of title III (42 U.S.C. 6291–6309) establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." The consumer products subject to this program (hereafter "covered products"), include TVs.

Under EPCA, the overall program consists essentially of testing, labeling, and Federal energy conservation standards.

Section 323 of EPCA (42 U.S.C. 6293) sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. It states, for example, that "[a]ny test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary [of Energy], and shall not be unduly burdensome to conduct." (42 U.S.C. 6293(b)(3)) Manufacturers of covered products must use test procedures prescribed under EPCA as the basis for establishing and certifying to DOE that their products comply with energy conservation standards adopted under EPCA. (42 U.S.C. 6295(s))

II. Discussion

While developing a test procedure for TVs, DOE looked to industry for existing test procedures. Among the most widely accepted are IEC Standard 62087–2008. [1] and the Environmental Protection Agency's (EPA) "ENERGY STAR Program Requirements for Televisions, Version 4.1.[2] " DOE has also studied CEA–2037 [3] and has noted that this test procedure relies heavily on both the ENERGY STAR and IEC test procedures. These test procedures, along with "Assessment of Options for Improving Energy Efficiency Test Procedures for Displays" (prepared for ENERGY STAR, Natural Resources Canada and NYSERDA by Ecos Consulting, March 17, 2010), as well as data and guidance provided from international subject matter experts, were the basis for identifying the below issues.

A. Luminance Level Measurements

1. Luminance Ratio

Although some display technologies' power consumption does not change markedly with changes in screen luminance, there is a strong correlation between these factors for most modern display technologies. This is evident, for example, in plasma, cathode ray tube (CRT), and locally dimmed LED-backlit LCD designs. As a result, it can be useful to measure the luminance of televisions during the process of determining their performance and power consumption. Among preset modes, most TVs have a retail picture mode for use in showrooms, in which their screens operate at relatively high luminance levels. TVs also typically have a home or default picture mode which is significantly dimmer and more suited for home viewing conditions.

ENERGY STAR v. 4.1 states that luminance should be tested at either a preset retail picture mode or the brightest selectable preset picture mode, therefore indicating that retail picture mode is analogous to the brightest selectable preset picture mode or a mode designed to be utilized while the TV is in a retail setting. ENERGY STAR v. 4.1 set guidelines specifying the picture mode in which TVs are to be set for testing by requiring that TVs either have 1) a forced menu where consumers can chose the picture mode in which their TV will operate (assuming most consumers will chose home or default picture mode), or 2) be tested as shipped.

Allowing for qualification in a home or default picture mode may encourage manufacturers to ship their TVs with a default picture mode dimmer than desired by most consumers, in order to earn a lower measured power value. Once purchased, consumers would likely switch the TV out of the dim picture mode to achieve a better picture, making the test procedure non-representative of actual energy use. To discourage this circumvention, and to ensure that TVs' home or default picture modes are not too dim for satisfactory consumer viewing, ENERGY STAR v. 4.1 requires that home or default picture mode luminance be at least 65 percent of retail picture mode luminance.

DOE acknowledges that the test procedure should ensure that screens are tested at levels sufficiently bright in home or default picture mode for satisfactory consumer utility; however, measuring luminance in a repeatable, representative manner has proven to be difficult, as discussed below. Therefore, DOE would like feedback from interested parties on alternative methods to help ensure that the screen brightness in home or default picture mode is not overly dim. Specifically, DOE is considering the following broad options individually or in combination:

- Measuring the power consumption of televisions at prescribed luminance levels;
- Eliminating the luminance measurement and comparing the ratio between the power consumed in home or default and retail picture modes while displaying a dynamic video signal; and/or
- Measuring the power consumption in various relevant picture modes.

DOE would like to receive interested party feedback on alternative methods of ensuring that screen brightness is adequate and representative, appropriate luminance levels, and proper percentages associated with the duration televisions spend at particular luminance levels.

2. Test Pattern and Measurement Method

When testing luminance, ENERGY STAR v. 4.1 requires that a single measurement be taken while the TV displays the 3-bar test pattern. The single measurement is taken, perpendicular to the center of the screen while displaying three bars of white (100 percent) over a black (0 percent) background, defined in IEC Standard 60107–1:1997, section 3.2.1.3. Although this test method is also employed by other regulating bodies, it may not be the most appropriate. According to a study done by Ecos Consulting, the 3-bar test pattern has an average picture level (APL) that is not typical of consumer use. This may disadvantage Plasma TVs, and has proven to be unpredictable with LED models. Furthermore, the single test point measurement is not appropriate for TVs with local dimming.

Alternative test patterns and test measurement methods may be more appropriate for the DOE test procedure. An alternative test pattern with an APL more similar to both the IEC broadcast video content and typical consumer use could be developed as an alternative testing pattern. The test pattern should also be technology neutral to prevent discrimination against particular TV technologies. However, DOE is aware that the IEC 3-bar test pattern has been adopted by multiple rulemaking bodies and trade associations such as EPA, CEA, CEC, and Australia. Therefore, DOE welcomes feedback from interested parties on using the IEC 3 bar test pattern. DOE also welcomes feedback on any alternative test patterns, such as a technology-neutral test pattern, that could be used in its test procedure.

Additionally, DOE is also considering a 9-point measurement over a single point measurement, since many televisions exhibit significant variations in luminance levels between the center and edges of the screen. China's test procedure takes the average of

[1] *Method of Measurement for the Power Consumption of Audio, Video and Related Equipment:* International Electrotechnical Commission 62087 Edition 2.0 2008–10.

[2] *Program Requirements for TVs:* ENERGY STAR Versions 4.1 and 5.1 (*http://www.energystar.gov/ia/partners/product_specs/program_reqs/tv_vcr_prog_req.pdf*).

[3] *Determination of Television Average Power Consumption:* Consumer Electronics Association. CEA–2037.

measurements made at 9 different points on the screen to account for those variations in luminance uniformity. DOE would like to receive feedback from interested parties on a 9-point test measurement versus a single point test measurement.

3. Measurement Distances and Angles

Measurement angles and distances are important when taking luminance readings. Therefore the ENERGY STAR v. 4.1 test procedure requires that the luminance measurement be taken "perpendicular to the center of the display screen." ENERGY STAR v. 4.1 further specifies that for Light Measuring Devices (LMDs) "that are not to be operated in close proximity to the screen, a 500 millimeter distance is recommended."

However, consumers watch TVs from various distances and angles. The test procedure may account for this by requiring that luminance measurements be taken at various angles and distances to most accurately account for consumer viewing conditions. Testing at various angles and distances might affect varying technologies differently depending on the particular test pattern. Alternatively, a contact measurement could be used, where the measurement device is placed directly on the screen to measure luminance.

DOE would like to receive feedback regarding the appropriateness of measuring luminance at the screen or at other distances and angles. Further, what distances and angles are optimal for taking these measurements?

4. Preset Picture Modes

As mentioned in section 1 above, ENERGY STAR v. 4.1 and IEC Standard 62087 require that TVs be tested in home or default picture mode. Many TVs are now equipped with remotes enabling consumers to switch easily between picture modes, allowing consumers to, either accidentally or intentionally, switch between modes. Easy switching between modes may put TVs into a higher power consumption state more easily. Currently, neither the ENERGY STAR v. 4.1 nor the IEC Standard 62087 test procedures account for energy consumption in non-retail or non-home modes. If consumers are more likely to switch out of home or default picture modes, the energy consumption associated with these other modes may require additional testing. Since current test procedures only require testing in home or default picture mode, DOE would like to receive feedback from interested parties on whether other preset viewing modes need to be tested and how to account for preset viewing modes.

B. Automatic Brightness Control

1. Room Illuminance

Automatic brightness control (ABC) is a power savings function that enables TVs to adjust screen luminance automatically according to the room illuminance. IEC Standard 62087 measures power savings related to ABC by requiring that the test be performed in a room with the illuminance at a level of 300 lux or greater. ENERGY STAR v. 4.1 requires the identical measurement at a level of 300 lux or greater along with an additional measurement at 0 lux.

Both IEC Standard 62087 and ENERGY STAR v. 4.1 require that a measurement be taken "at 300 lux or greater" which is ambiguous, as it requires testing at any illuminance greater than 300 lux rather than at a discrete point, and may not promote consistent testing across all products. Further, the ENERGY STAR v. 4.1 requirement may encourage manufacturers to drastically dim TVs at 0 lux (because power consumption is tested at 0 lux) and increase screen luminance sharply at values slightly over 0 lux to provide a bright picture setting, and then flatten out, or be non-responsive to illuminance changes until values of 300 lux or greater are achieved (since power consumption is tested at levels of 300 lux or greater). As a result, it is difficult to predict how much energy ABC will save when televisions are operated across a range of representative illuminance conditions.

A more repeatable and representative method of measuring ABC could result from requiring testing at specific illuminance conditions, rather than 0 lux and 300 lux or greater, that are more typical of consumer viewing conditions. DOE would like to receive comments from interested parties on testing at multiple illuminance levels as well as which levels would be most appropriate. Possible illuminance levels could include 0, 10, 100, and 200 lux.

2. Measurement Location and Lighting

When measuring ABC, both ENERGY STAR v. 4.1 and IEC Standard 62087 require that the measurement of room illuminance be taken at the location of the light presence sensor. However, there is no indication given regarding the orientation of illuminance meter, which can have a significant effect on the measured value. Likewise, no guidance is provided on the type of light source to be used, and how directional that source is, which could affect a light sensor's response.

DOE is aware that there are alternative locations to measure ambient light conditions. For example, rather than measuring illuminance at the light presence sensor, the measurement can be taken at the center of the screen. This approach may be preferred since the consumer views the TV at the center of the screen, ensuring that the test procedure is representative of consumer use. DOE welcomes interested party feedback on the positioning of illuminance measurements.

Finally, the lighting conditions used when measuring ABC should be created in a similar fashion, to promote consistent testing across products. DOE welcomes comments on the appropriate method to create desired illuminance to measure energy savings associated with ABC.

C. Signal Source

A number of different devices such as a Blu-ray player, DVD player, computer, or signal generator can serve as the signal source, which can be transmitted via high-definition multimedia interface (HDMI), digital component, or video graphics array (VGA) cables.

The IEC Standard 62087 test procedure requires an RF input signal or baseband input signal if RF is not available. The ENERGY STAR v. 4.1 requires that the input signals must be within ±2% of reference black and white levels. If the device has HDMI, this shall be used. Although both methods are sound, in order to obtain the most accurate and consistent power and luminance measurements, a standard method should be used.

DOE is considering which signal source is most robust to ensure repeatable and reproducible test procedure results. In a study done by Ecos, the use of a standard input generator with a HDMI input was found to produce the least varied results. Ecos concluded that if a signal generator was not used, a DVD or Blu-ray player would also be sufficient for conducting luminance ratio measurements; however, a personal computer did not provide a sufficiently consistent signal. Ecos also determined that when HDMI is not available, a component connection should be utilized. DOE would like interested parties to comment on the best possible signal sources and connections for use in its test procedure.

D. Steady State

TVs should reach steady state prior to the technician measuring both power and luminance. The warm-up periods

for power measurements specified in IEC Standard 62087 and ENERGY STAR v. 4.1 are dependent on the video signal being used to test the TV. For static video signals, the measurement must be taken before the activation of image retention prevention features. Whereas for broadcast-content video and internet-content video signals, the measurement is taken after the TV has been operating for 1 hour. The lengthy warm-up requirement may not be necessary for all TV technologies, requiring unnecessary burden on manufacturers; therefore DOE would like to solicit comments from interested parties on appropriate warm-up periods or a method of ensuring that the variation in the measured power is within a particular percentage needed for TVs to reach steady-state.

For conducting luminance measurements, the ENERGY STAR v. 4.1 test procedure requires the luminance test pattern to run for 10 minutes before recording a measurement, noting that if the TV stabilizes prior to 10 minutes, a measurement can be taken earlier. DOE believes that the 10 minute warm-up period may not provide sufficient time to allow all TV technologies to stabilize. However, a longer warm-up period will increase the overall time needed to conduct a full test. DOE would like to receive comments from interested parties on the time required for TV luminance to stabilize.

E. Three Dimensional Technology

Both the IEC and ENERGY STAR v. 4.1 test procedures only account for testing of two dimensional (2D) images. However, three dimensional (3D) technology in TVs is becoming increasingly popular and DOE is unaware of any existing test methods for accurately measuring energy use for 3D technology using 3D images. Although 3D TVs can switch to 2D viewing and be tested using existing 2D test procedures, the 2D test patterns and testing methods might not account for the potential increase in energy use associated with 3D picture settings. DOE requests feedback from interested parties on testing 3D TVs.

F. Download Acquisition Mode

The ENERGY STAR v. 4.1 test procedure defines download acquisition mode as:

"*Where the product is connected to a mains power source, is not producing a sound or a picture, and is actively downloading channel listing information according to a defined schedule for use by the electronic programming guide, monitoring for emergency messaging/communications and/or otherwise communicating through a network protocol. The power use in this mode is typically greater than the power requirement in Sleep and less than that in On Mode.*"

While IEC Standard 62087 does account for energy consumed in download acquisition mode, the ENERGY STAR v. 4.1 test procedure requires that download acquisition mode be tested according to the test procedure developed by ROVI Corporation (*http://www.energystar.gov/ia/partners/prod_development/revisions/downloads/television/Procedure_DAM_Testing.pdf*). DOE is considering if and how it should measure download acquisition mode and would like interested party feedback on the issue.

G. Internet Connectivity

TVs are increasingly designed to include the ability to connect to the internet. This technology allows users to stream information directly from the internet for display onto their TV, potentially causing TVs to consume more energy. IEC Standard 62087 measures internet usage by requiring that a power measurement be taken while the television is displaying an internet content video signal. Although internet and television images may differ, DOE would like to receive comment on the energy required to connect to and display images from the internet.

H. Power Saving Technologies

1. Presence Sensors

Presence sensors use a technology that enables a TV to sense the presence of viewers through movement and body heat. The TV will power down if it senses a lack of a viewer in the room, in order to save energy. IEC Standard 62087 measures savings related to other power saving functions but does not specify a detailed test method for testing presence sensor technology.

To ensure that all power saving technologies are accounted for correctly in the test procedure, DOE is considering whether or not to develop a more detailed test procedure to test savings associated with the presence sensor technology. DOE would like to receive comment on this issue.

2. Other Power Saving Technologies

DOE is aware that many power saving technologies exist for TVs. For example, Video Electronics Standards Association (VESA) Display Power Management System (DPMS), which manages the power supply of computer displays, and HDMI Consumer Electronics Control (CEC), which allows users to manage their entertainment system to reduce energy use. IEC Standard 62087 accounts for other power saving functions by simply requiring that the user "test other power saving functions," but does not specify particular testing methods for these technologies.

In order to ensure the most repeatable and reproducible testing method, DOE would like to receive comment on possible methods to test these as well as other viable power saving technologies.

I. Scope of Coverage

Traditionally, computer monitors and televisions have been tested separately since each requires different technologies and were utilized differently by consumers. Recently, however, televisions have begun to integrate the internet and other computer-like features. Similarly, some computer monitors now feature television viewing capabilities. Both the technologies and markets for computer monitors and television have begun to merge, with some identical products being marketed separately as televisions and monitors. For instance, LCD panels are often identical in similar-sized monitors and TVs; new TVs often come equipped to receive VGA input; and monitors often come equipped with HDMI inputs. DOE would like feedback on whether to include computer monitors in the scope of the television test procedure to account for the current amalgamation of the traditionally different products.

ENERGY STAR v. 4.1's scope includes televisions with computer capability but distinguishes between televisions and computer monitors only based on how they are marketed and sold to consumers. DOE would like to receive comment on whether computer monitor and television technology require separate testing methods or could be tested using the same methods.

DOE seeks responses from interested parties and requests submission of comments, relevant data, and information related to the issues described above.

III. Public Participation

DOE is also interested in comments on other relevant issues that participants believe would affect test procedures applicable to this product. DOE invites all interested parties to submit in writing by October 4, 2010, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of new test procedures for TVs.

After the close of the comment period, DOE will begin collecting data, conducting the analyses, and reviewing

the public comments. These actions will be taken to aid in the development of a test procedure NOPR for TVs.

DOE considers public participation to be a very important part of the process for developing test procedures. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586–2945, or via e-mail at *Brenda.Edwards@ee.doe.gov*.

Issued in Washington, DC, on August 27, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–22066 Filed 9–2–10; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Part 1101

Description of Office, Procedures, and Public Information

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Financial Institutions Examination Council (Council or FFIEC), on behalf of its members, is proposing to update its Freedom of Information Act (FOIA) regulations. The Council last made changes to its FOIA regulations in 1988. Since that time information relating to the Council has changed and there have been several amendments to the FOIA, which need to be reflected in the regulations. The proposed rules revise the procedures to be used by members of the public in requesting records maintained by the Council, the time limits in which the Council must make a determination on disclosure in response to a request for records, the time period in which a requester has the right to administratively appeal any adverse determination made on a request for records, and provides procedures to be used to request expedited processing of FOIA requests. The revisions in the proposed rules are designed to improve access to records maintained by the Council and to provide clearer guidance to requesters on how to obtain records under the FOIA.

DATES: Comments must be submitted on or before October 4, 2010.

ADDRESSES: Because paper mail in the Washington, DC area and received by the Council is subject to delay due to heightened security precautions, commenters are encouraged to submit comments by the Federal eRulemaking Portal, if possible. Please use the title "FOIA Comments" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—"Regulations.gov":* Go to *http://www.regulations.gov*, under the "More Search Options" tab click next to the "Advanced Docket Search" option where indicated, select "FFIEC" from the agency drop-down menu, then click "Submit." In the "Docket ID" column, select "Docket Number FFIEC–2010–0001" to submit or view public comments, and to view supporting and related materials for this notice of proposed rulemaking. The "How to Use This Site" link on the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Mail:* Paul Sanford, Executive Secretary, Federal Financial Institutions Examination Council, L. William Seidman Center, Mailstop: B–7081a, 3501 Fairfax Drive, Arlington, Virginia 22226–3550.
- *Hand Delivery/Courier:* Paul Sanford, Executive Secretary, Federal Financial Institutions Examination Council, L. William Seidman Center, Mailstop: B–7081a, 3501 Fairfax Drive, Arlington, Virginia 22226–3550.

Instructions: You must include "FFIEC" as the agency name and "Docket Number FFIEC–2010–0001" in your comment. In general, the Council will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this notice of proposed rulemaking electronically by following these instructions: Go to *http://www.regulations.gov,* under the "More Search Options" tab click next to the "Advanced Document Search" option where indicated, select "FFIEC" from the agency drop-down menu, then, click "Submit." In the "Docket ID" column, select "Docket FFIEC–2010–0001" to view public comments for this rulemaking action.

Docket: You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Paul Sanford, Executive Secretary, Federal Financial Institutions Examination Council, via telephone: (703) 516–5590, or via e-mail: *PaSanford@FDIC.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Council proposes a number of substantive and technical changes to its regulations implementing the FOIA (5 U.S.C. 552, as amended) that fall within two general categories. First, the Council proposes modifying its existing regulations to reflect the amendments to the FOIA contained in the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048, and the OPEN Government Act, Public Law 110–175, 121 Stat. 2524. The Electronic Freedom of Information Act Amendments increased the FOIA's basic time limit for agency responses to FOIA requests, and provided for expedited processing of FOIA requests under certain conditions, among other procedural revisions. The OPEN Government Act also amended various FOIA administrative procedures, such as when an agency may toll the statutory time for responding to FOIA requests, and how to indicate exemptions authorizing deletion of materials under the FOIA on a responsive record.

Second, the Council proposes to revise its regulations to further clarify its policies and procedures relating to the processing of FOIA requests and the administration of its FOIA operations.

Accordingly, the Council proposes to revise its regulations implementing the FOIA and put them out for public comment. The specific amendments that the Council proposes to each section of 12 CFR Part 1101 are discussed hereafter in regulatory sequence.

II. Proposed Regulatory Revisions

In 12 CFR 1101.3(e), the Council proposes revising the paragraph by

providing the current address of the Council's offices.

In 12 CFR 1101.4(a), the Council proposes revising the paragraph by providing the current address of the Council's offices and clarifying that Council policies and interpretations may be withheld from disclosure under exemptions to the FOIA.

In 12 CFR 1101.4(b), the Council proposes minor revisions to the wording of the section heading.

In 12 CFR 1101.4(b)(1), the Council proposes minor revisions in the wording of the paragraph to explain that Council records that are not published in the **Federal Register** or available for inspection and copying at the Council's offices are available to the public upon request except to the extent that such records are exempt from disclosure under the FOIA.

In 12 CFR 1101.4(b)(1)(i), the Council proposes capitalizing the word "Order" when referring to an Executive Order.

In 12 CFR 1101.4(b)(1)(v), the Council proposes adding language to protect from disclosure records of deliberations and meetings of the Council, its committees, and staff, that are not subject to the Government in the Sunshine Act, 5 U.S.C. 552b.

In 12 CFR 1101.4(b)(1)(vii), the Council proposes revising the paragraph by substituting a reference to the statutory citation for Exemption 7 of the FOIA, 5 U.S.C. 552(b)(7), for the list of the specific substantive provisions of the exemption in the existing regulation. In addition, the term "state or federal" has been inserted to clarify that records of state financial regulatory agencies in the possession of the Council are exempt from disclosure under Exemption 7 as are the records of federal regulatory agencies.

In 12 CFR 101.4(b)(1)(viii), the Council proposes revising the paragraph by eliminating a listing of the types of financial institutions covered by Exemption 8 of the FOIA, 5 U.S.C. 552(b)(8), and inserting the term "state or federal" to clarify that records of state financial regulatory agencies in the possession of the Council are exempt from disclosure under Exemption 8.

In 12 CFR 1101.4(b)(2), the Council proposes revising the heading to reflect current FOIA terminology concerning discretionary releases of exempt information.

In 12 CFR 1101.4(b)(3)(i), the Council proposes to revise the paragraph to provide the current address of the Council's offices, to allow the submission of FOIA requests by facsimile and e-mail, and to require that requests reasonably describe the records sought.

In 12 CFR 1101.4 (b)(3)(ii) the Council proposes to revise the paragraph to specify the information that a request must contain in order to be considered a "proper FOIA request" (*i.e.,* a request to which a response is required). In addition, the Council proposes to require a requester to identify whether the information sought by a FOIA request is requested for commercial use and whether the requester is an educational or noncommercial scientific institution, or news media representative, and to address the payment of fees.

In 12 CFR 1101.4(b)(3)(iii), the Council proposes modifying the language of the paragraph to clarify that the Council need not accept or process a defective FOIA request and to provide that such a request may be returned to the requester specifying the deficiency.

In 12 CFR 1101.4(b)(3)(iv), the Council proposes to add a procedure to request the expedited treatment of FOIA requests. A requester seeking to have the processing of a request expedited must show a compelling need for expedited processing.

In 12 CFR 1101.4(b)(3)(v), the Council proposes revising its procedures to increase the time limit in which the Council must respond to a FOIA request from 10 working days to 20 working days in accordance with the Electronic Freedom of Information Act Amendments and to clarify what information the Council's response to a FOIA request must contain.

In 12 CFR 1101.4(b)(3)(vi), the Council proposes to shorten the time period in which an administrative appeal of a denied request may be brought from 35 calendar days to 10 working days, to provide for the filing of administrative appeals by facsimile, and to update the mailing address of the Council.

In 12 CFR 1101.4(b)(3)(vii), the Council proposes to clarify that the time in which the Council has to respond to an appeal runs from the actual receipt of the appeal by the Executive Secretary of the Council.

In 12 CFR 1101.4(b)(4), the Council proposes to designate the existing paragraph as paragraph 1101.4(b)(4)(i) and to make a minor grammatical change to the language of the paragraph.

The Council proposes to add 12 CFR 1101.4(b)(4)(ii) to provide that if the responsive records are to be delivered to the requester, they will be mailed to the requester unless the Executive Secretary of the Council determines that it is appropriate to send the records by some other means.

The Council proposes to add 12 CFR 1101.4(b)(4)(iii) to indicate that the Council will provide a copy of a responsive record in the format requested by the requester if the record is "readily reproducible" in that format.

The Council proposes to add 12 CFR 1101.4(b)(4)(iv) to permit records to be provided electronically, and to provide that if the information is subject to the Privacy Act, 5 U.S.C. 552a, it will not be sent electronically unless "reasonable security measures" can be established.

In 12 CFR 1101.4(b)(5)(i)(C), the Council proposes to revise the definition of the term "Duplication" to provide examples of the forms of document reproduction that may be used by the Council.

In 12 CFR 1101.4(b)(5)(i)(D), the Council proposes to make a minor change to the wording of the paragraph replacing the character "§ " with the word "section".

In 12 CFR 1101.4(b)(5)(i)(E), the Council proposes to add a provision to allow the Executive Secretary of the Council to consider the use to which the requester will put the records, and to seek additional information on the use if necessary in order to determine whether a particular FOIA request is a "commercial use request".

In 12 CFR 1101.4(b)(5)(i)(G), the Council proposes to make a minor change to the wording of the paragraph replacing the character "§ " with the word "section".

In 12 CFR 1101.4(b)(5)(i)(H), the Council proposes revising its definition of "Representative of the news media" to reflect the definition provided in the OPEN Government Act, 5 U.S.C 552(a)(4)(A)(ii).

In 12 CFR 1101.4(b)(5)(ii)(C)(2), the Council proposes to add computer disks to the list of examples indicating the types of materials for which a requester will be charged a fee.

In 12 CFR 1101.4(b)(5)(ii)(F), the Council proposes revising the paragraph to provide examples of "special services" for which additional fees may be charged.

In 12 CFR 1101.4(b)(5)(ii)(H), the Council proposes to revise the procedures for requesting a waiver or reduction of fees. The proposed revisions include eliminating the list of factors to be considered by the Council in determining whether the public interest requirement is met, requiring a requester to state a justification for a waiver or reduction of fees, and providing a right to administratively appeal the denial of a request for a waiver or reduction of fees.

In 12 CFR 101.4(b)(5)(iii)(A), the Council proposes to make a minor grammatical change to the language of the paragraph.

In 12 CFR 101.4(b)(5)(iv), the Council proposes to make a minor change to the statutory citation contained in the paragraph.

In 12 CFR 1101.4(b)(5)(vii)(B), the Council proposes to make a minor change to the wording of the paragraph replacing the character "§" with the word "section".

In 12 CFR 1101.4(b)(5)(vii)(C), the Council proposes to revise the paragraph by replacing the character "§" with the word "section," and by increasing the limit stated in the parenthetical phrase to 20 working days in accordance with subsection (a)(6) of the FOIA 5 U.S.C. 552(a)(6).

In 12 CFR 1101.4(b)(6), the Council proposes revising the paragraph to provide that referral or consultation with another agency is appropriate whenever the requested record originated with or incorporates the information of another state or federal agency.

III. Regulatory Analysis and Procedure

A. Regulatory Flexibility Act

In accordance with section 3(a) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603(a), the Council must publish an initial regulatory flexibility analysis with this proposed rulemaking or certify that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA analysis or certification, financial institutions with total assets of $175 million or less are considered to be "small entities." The Council hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. These proposed changes do not contain any information collection requirements that require the approval of OMB.

C. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Council invites your comments on how to make this proposed regulation easier to understand. For example:

- Has the Council organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the proposed regulation be more clearly stated?
- Does the proposed regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed regulation easier to understand? If so, what changes to the format would make the proposed regulation easier to understand?
- What else could the Council do to make the proposed regulation easier to understand?

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

The Council has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

Congressional Review Act

This proposed rule will be submitted to OMB for a determination as to whether or not it constitutes a major rule under the Congressional Review Act, 5 U.S.C. 801–808, 5 U.S.C 804(2), (3)(c), before it is issued as a final rule.

Lists of Subjects in 12 CFR Part 1101

Freedom of information, FOIA exemptions, Schedule of fees, Waivers or reductions of fees.

For the reasons set forth in the preamble, the Council proposes to amend 12 CFR part 1101 as follows:

PART 1101—DESCRIPTION OF OFFICE, PROCEDURE, PUBLIC INFORMATION

1. The authority citation for part 1101 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 3307.

2. Section 1101.3 is amended by revising paragraph (e) to read as follows:

§ 1101.3 Organization and methods of operation.

* * * * *

(e) *Council address.* Council offices are located at 3501 Fairfax Drive, Room B–7081a, Arlington, VA 22226–3550.

3. Section 1101.4 is amended:

a. By revising paragraph (a);

b. By revising the heading for paragraph (b) and paragraphs (b)(1) introductory text, (b)(1)(i), (v), (vii), and (viii);

c. By revising paragraphs (b)(2), (3), and (4);

d. By revising paragraphs (b)(5)(i)(C), (D), (E), (G), and (H) and (b)(5)(ii)(C)(*2*), (F), and (H); and

e. By revising paragraphs (b)(5)(iii)(A), (b)(5)(iv), (b)(5)(iv)(B), (C), and (b)(6).

The revisions read as follows:

§ 1101.4 Disclosure of information, policies, and records.

(a) *Statements of policy published in the* ***Federal Register*** *or available for public inspection and copying; indices.* Under 5 U.S.C. 552(a)(1), the Council publishes general rules, policies and interpretations in the **Federal Register.** Under 5 U.S.C. 552(a)(2), policies and interpretations adopted by the Council, including instructions to Council staff affecting members of the public, and an index to the same, are available for public inspection and copying at the office of the Executive Secretary of the Council, 3501 Fairfax Drive, Room B–7081a, Arlington, VA 22226–3550, during regular business hours. Policies and interpretations of the Council may be withheld from disclosure under the principles stated in paragraph (b)(1) of this section.

(b) *Other records of the Council available to the public upon request; procedures*—(1) *General rule and exemptions.* Under 5 U.S.C. 552(a)(3), all other records of the Council are available to the public upon request, except to the extent exempted from disclosure as provided in this paragraph (b). Except as specifically authorized by the Council, the following records, and portions thereof, are not available to the public:

(i) A record, or portion thereof, which is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which is, in fact, properly classified pursuant to such Executive Order.

* * * * *

(v) An intra-agency or interagency memorandum or letter that would not be routinely available by law to a private party in litigation, including, but not limited to, memoranda, reports, and other documents prepared by the personnel of the Council or its constituent agencies, and records of deliberations of the Council and discussions of meetings of the Council, any Council Committee, or Council staff, that are not subject to 5 U.S.C.

552b (the Government in the Sunshine Act).

* * * * *

(vii) Records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7), including records relating to a proceeding by a financial institution's state or federal regulatory agency for the issuance of a cease-and-desist order, or order of suspension or removal, or assessment of a civil money penalty and the granting, withholding, or revocation of any approval, permission, or authority.

(viii) A record, or portion thereof, containing, relating to, or derived from an examination, operating, or condition report prepared by, or on behalf of, or for the use of any state or federal agency directly or indirectly responsible for the regulation or supervision of financial institutions.

* * * * *

(2) *Discretionary Release of Exempt Information.* Notwithstanding the applicability of an exemption, the Council or the Council's designee may elect, under the circumstances of a particular request, to disclose all or a portion of any requested record where permitted by law. Such disclosure has no precedential significance.

(3) *Procedure for records request*—(i) *Initial request.* Requests for records shall be submitted in writing to the Executive Secretary of the Council: (A) By sending a letter to: FFIEC, Attn: Executive Secretary, 3501 Fairfax Drive, Room B–7081a, Arlington, VA 22226–3550. Both the mailing envelope and the request should be marked "Freedom of Information Request," "FOIA Request," or the like; or (B) By facsimile clearly marked "Freedom of Information Act Request," "FOIA Request," or the like to the Executive Secretary at (703) 562–6446; or (C) By e-mail to the address provided on the FFIEC's World Wide Web page, found at: *http://www.ffiec.gov.* Requests must reasonably describe the records sought.

(ii) *Contents of request.* All requests should contain the following information: (A) the name and mailing address of the requester, an electronic mail address, if available, and the telephone number at which the requester may be reached during normal business hours;

(B) A statement as to whether the information is intended for commercial use, and whether the requester is an educational or noncommercial scientific institution, or news media representative;

(C) A statement agreeing to pay all applicable fees, or a statement identifying any desired fee limitation, or a request for a waiver or reduction of fees that satisfies paragraph (5)(H)(ii) of this section.

(iii) *Defective requests.* The Council need not accept or process a request that does not reasonably describe the records requested or that does not otherwise comply with the requirements of this section. The Executive Secretary may return a defective request specifying the deficiency. The requester may submit a corrected request, which will be treated as an initial request.

(iv) *Expedited processing.* (A) Where a person requesting expedited access to records has demonstrated a compelling need for the records, or where the Executive Secretary has determined to expedite the response, the Executive Secretary shall process the request as soon as practicable. To show a compelling need for expedited processing, the requester shall provide a statement demonstrating that:

(*1*) Failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(*2*) The requester is primarily engaged in information dissemination as a main professional occupation or activity, and there is urgency to inform the public of the government activity involved in the request.

(B) The requester's statement must be certified to be true and correct to the best of the person's knowledge and belief and explain in detail the basis for requesting expedited processing.

(C) The formality of the certification required to obtain expedited treatment may be waived by the Executive Secretary as a matter of administrative discretion.

(v) *Response to initial requests.* (A) Except where the Executive Secretary has determined to expedite the processing of a request, the Executive Secretary will respond by mail or electronic mail to all properly submitted initial requests within 20 working days of receipt. The time for response may be extended up to 10 additional working days, as provided in 5 U.S.C. 552(a)(6)(B), or for other periods by agreement between the requester and the Executive Secretary.

(B) In response to a request that reasonably describes the records sought and otherwise satisfies the requirements of this section, a search shall be conducted of records in existence and maintained by the Council on the date of receipt of the request, and a review made of any responsive information located. The Executive Secretary shall notify the requester of:

(*1*) The Executive Secretary's determination of the response to the request;

(*2*) The reasons for the determination;

(*3*) If the response is a denial of an initial request or if any information is withheld, the Executive Secretary will advise the requester in writing:

(*i*) If the denial is in part or in whole;

(*ii*) The name and title of each person responsible for the denial (when other than the person signing the notification);

(*iii*) The exemptions relied on for the denial; and

(*iv*) The right of the requester to appeal the denial to the Chairman of the Council within 10 working days following the date of issuance of the notification, as specified in paragraph (b)(3)(vi) of this section.

(vi) *Appeals of responses to initial requests.* If a request is denied in whole or in part, the requester may appeal in writing, within 10 working days of the date of issuance of a denial determination. Appeals shall be submitted to the Chairman of the Council: (A) By sending a letter to: FFIEC, Attn: Executive Secretary, 3501 Fairfax Drive, Room B–7081a, Arlington, VA 22226–3550. Both the mailing envelope and the request should be marked "Freedom of Information Act Appeal," "FOIA Appeal," or the like; or (B) By facsimile clearly marked "Freedom of Information Act Appeal," "FOIA Appeal," or the like to the Executive Secretary at (703) 562–6446. Appeals should refer to the date and tracking number of the original request and the date of the Council's initial ruling. Appeals should include an explanation of the basis for the appeal.

(vii) *Council response to appeals.* The Chairman of the Council, or another member designated by the Chairman, will respond to all properly submitted appeals within 20 working days of actual receipt of the appeal by the Executive Secretary. The time for response may be extended up to 10 additional working days, as provided in 5 U.S.C. 552(a)(6)(B), or for other periods by agreement between the requester and the Chairman or the Chairman's designee.

(4) *Procedure for access to records if request is granted.* (i) When a request for access to records is granted, in whole or in part, a copy of the records to be disclosed will be promptly delivered to the requester or made available for inspection, whichever was requested. Inspection of records, or duplication and delivery of copies of records will be arranged so as not to interfere with their

use by the Council and other users of the records.

(ii) When delivery to the requester is to be made, copies of requested records shall be sent to the requester by regular U.S. mail to the address indicated in the request, unless the Executive Secretary deems it appropriate to send the documents by another means.

(iii) The Council shall provide a copy of the record in any form or format requested if the record is readily reproducible by the Council in that form or format, but the Council need not provide more than one copy of any record to a requester.

(iv) By arrangement with the requester, the Executive Secretary may elect to send the responsive records electronically if a substantial portion of the records is in electronic format. If the information requested is subject to disclosure under the Privacy Act of 1974, 5 U.S.C. 552a, it will not be sent by electronic means unless reasonable security measures can be established.

(5) * * *

(i) * * *

(C) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audiovisual records, or machine readable records (e.g., magnetic tape or computer disk).

(D) *Review* means the process of examining documents located in response to a request that is for a commercial use (*see* section 1101.4(b)(5)(i)(E)) to determine whether any portion of any document located is permitted to be withheld and processing such documents for disclosure.

(E) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request falls within this category, the Executive Secretary will determine the use to which a requester will put the records requested and seek additional information as the Executive Secretary deems necessary.

* * * * *

G) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis as that term is referenced in section 1101.4(b)(5)(i)(E), and which is operated solely for the purposes of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(H) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Council may also consider the past publication record of the requester in making such a determination.

* * * * *

(ii) * * *

(C) * * *

(*2*) The fee for documents generated by computer is the hourly rate for the computer operator (at GS 7, step 5, plus 16 percent for benefits if clerical staff, and GS 13, step 5, plus 16 percent for benefits if professional staff) plus the cost of materials (computer paper, tapes, disks, labels, etc.).

* * * * *

(F) *Other services.* Complying with requests for special services such as certifying records as true copies or mailing records by express mail is entirely at the discretion of the Council. The Council will recover the full costs of providing such services to the extent it elects to provide them.

* * * * *

(H) *Waiving or reducing fees.* As part of the initial request for records, a requester may ask that the Council waive or reduce fees if disclosure of the records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Council and is not primarily in the commercial interest of the requester. The initial request for records must also state the justification for a waiver or reduction of fees. Determinations as to a waiver or reduction of fees will be made by the Executive Secretary of the Council and the requester will be notified in writing of his/her determination. A determination not to grant a request for a waiver or reduction of fees under this paragraph may be appealed to the Chairman of the Council pursuant to the procedure set forth in paragraph (b)(3)(vi) of this section.

(iii) *Categories of requesters.* (A) Commercial use requesters. The Council will assess fees for commercial use requesters sufficient to recover the full direct costs of searching for, reviewing for release, the duplicating the records sought.

* * * * *

(iv) *Interest on unpaid fees.* The Council may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing.

* * * * *

(B) A requester has previously failed to pay a fee charged in a timely fashion. The Council may require the requester to pay the full amount owed plus any applicable interest as provided in section 1101.4(b)(5)(iv) or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the Council begins to process a new request or a pending request from that requester.

(C) When the Council acts under section 1101.4(b)(5)(vii) (A) or (B), the administrative time limits prescribed in subsection (a)(6) of the FOIA (*i.e.,* 20 working days from receipt of initial requests, plus permissible extensions of these time limits) will begin only after the Council has received the fee payments described.

(6) *Records of another agency.* If a requested record originated with or incorporates the information of another state or federal agency or department, upon receipt of a request for the record the Council will promptly inform the requester of this circumstance and immediately shall forward the request to the originating agency or department either for processing in accordance with the latter's regulations or for guidance with respect to disposition.

Dated at Arlington, Virginia, this 26th day of August 2010.

Federal Financial Institutions Examination Council.

Paul Sanford,

Executive Secretary.

[FR Doc. 2010–21667 Filed 9–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0719; Airspace Docket No. 10–ANM–8]

Proposed Modification of Class E Airspace; Portland, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace at Portland International Airport, Portland, OR. Additional controlled airspace is necessary to accommodate aircraft using the Localizer/Distance Measuring Equipment (LOC/DME) for Standard Instrument Approach Procedures (SIAPs) at Portland International Airport, Portland, OR. The FAA is proposing this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before October 18, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2010–0719; Airspace Docket No. 10–ANM–8, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2010–0719 and Airspace Docket No. 10–ANM–8) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2010–0719 and Airspace Docket No. 10–ANM–8". The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Portland International Airport, Portland, OR. Controlled airspace is necessary to accommodate aircraft using the LOC/DME SIAPs at Portland International Airport, and to further the safety and management of IFR operations at the airport.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal

Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM OR E5 Portland, OR [Modified]

Portland International Airport, OR
(Lat. 45°35′19″ N., long. 122°35′51″ W.)
Newburg VORTAC
(Lat. 45°21′12″ N., long. 122°58′41″ W.)
Corvallis VOR/DME
(Lat. 45°29′58″ N., long. 123°17′37″ W.)
McMinnville Municipal Airport, OR
(Lat. 45°11′40″ N., long. 123°08′09″ W.)

That airspace extending upward from 700 feet above the surface within a line beginning at lat. 45°59′59″ N., long. 123°30′04″ W.; to lat. 46°00′00″ N., long. 122°13′00″ W.; thence via an 8.5-mile radius centered at lat. 45°55′07″ N., long. 122°03′02″ W. clockwise to lat. 45°46′39″ N., long. 122°04′00″ W.; thence via a line south along long. 122°04′00″ W. bounded on the south by lat. 45°09′59″ N., and on the west by long. 123°30′04″ W.; and within a 4.3-mile radius of the McMinnville Municipal Airport; and within 2 miles each side of the Newburg VORTAC 215° radial extending from lat. 45°09′59″ N., to 19.8 miles southwest of the Newburg VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 46°30′29″ N., extending from 2.7 miles offshore to V–25, and on the east by V–25, on the south by V–536 to Corvallis VOR/DME; thence via lat. 44°29′59″ N., to a point 2.7 miles offshore, and on the west by a line 2.7 miles offshore to the point of beginning.

Issued in Seattle, Washington, on August 27, 2010.

John Warner,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–22099 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0813; Airspace Docket No. 09–AEA–12]

RIN 2120–AA66

Proposed Revocation of VOR Federal Airway V–284; New Jersey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove VHF omnidirectional range (VOR) Federal airway V–284, which extends between the Sea Isle, NJ and Cedar Lake, NJ, VHF omnidirectional range/tactical navigation (VORTAC) facilities. The FAA is proposing this action due to low demand for use of the airway.

DATES: Comments must be received on or before October 18, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2010–0813 and Airspace Docket No. 09–AEA–12 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0813 and Airspace Docket No. 09–AEA–12) and be submitted in triplicate to the Docket Management Facility (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2010–0813 and Airspace Docket No. 09–AEA–12." The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to remove VOR Federal airway V–284, which is only 29 nautical miles in length, and extends from the Sea Isle, NJ, VORTAC, through the

AZXEW intersection, to the Cedar Lake, NJ, VORTAC. An air traffic survey conducted from June 1, 2009 to May 31, 2010, revealed that only 15 instrument flight rules flights utilized V–284. The FAA believes that retaining the airway for this low number of IFR activities is not cost effective.

VOR Federal airways are published in paragraph 6010 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 VOR Federal airway listed in this document would be removed subsequently from 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. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as required to preserve the safe and efficient flow of air traffic within the National Airspace System.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

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 6010 VOR Federal Airways.

* * * * *

V–284 [Removed]

Issued in Washington, DC, on August 27, 2010.

Edith V. Parish,

Manager, Airspace & Rules Group.

[FR Doc. 2010–22007 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release No. 33–9137; File No. S7–18–10]

RIN 3235–AK70

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

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to further extend the temporary filing accommodation in Rule 312 of Regulation S–T that allows static pool information required to be disclosed in a prospectus of an asset-backed issuer to be provided on an Internet Web site under certain conditions. Under this rule, such information is deemed to be included in the prospectus included in the registration statement for the asset-backed securities. This rule currently applies to filings with respect to asset-backed securities filed on or before December 31, 2010. We propose to amend this rule to extend its application for an additional eighteen months. Under the proposed extension, the rule would apply to filings with respect to asset-backed securities filed on or before June 30, 2012.

DATES: Comments should be received on or before October 4, 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/proposed.shtml*);
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–18–10 on the subject line; or
- Use the Federal Rulemaking 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 Number S7–18–10. 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/proposed.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: Jay Knight, Attorney-Adviser, Division of Corporation Finance, at (202) 551–3370, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3720.

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

I. Background

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

As described in the 2004 Adopting Release, in response to the Commission's proposal to require material static pool information in prospectuses for ABS offerings, many commentators representing both asset-backed issuers and investors requested flexibility in the presentation of such information. In particular, commentators noted that the required static pool information could include a significant amount of statistical information that would be difficult to file electronically on EDGAR as it existed at that time and difficult for investors to use in that format. Commentators accordingly requested the flexibility for asset-backed issuers to provide static pool information on an Internet Web site rather than as part of an EDGAR filing.[9] In response to these comments, we adopted Rule 312 of Regulation S–T, which permits, but does not require, the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.[10] We recognized at the time that a Web-based approach might allow for the provision of the required information in a more efficient, dynamic and useful format than was currently feasible on the EDGAR system. At the same time, we explained that we continued to believe at some point for future transactions the information should also be submitted with the Commission in some fashion, provided investors continue to receive the information in the form they have requested. Accordingly, we adopted Rule 312 as a temporary filing accommodation applicable to filings filed on or before December 31, 2009.[11] We explained that we were directing our staff to consult with the EDGAR contractor, EDGAR filing agents, issuers, investors and other market participants to consider how static pool information could be filed with the Commission in a cost-effective manner without undue burden or expense that still allows issuers to provide the information in a desirable format. We also noted, however, that it might be necessary, among other things, to extend the accommodation.[12]

On October 19, 2009, we proposed to extend the temporary filing accommodation until December 31, 2010.[13] We received four comment letters that addressed the proposed extension.[14] Two commentators expressed support for the Rule 312 filing accommodation and the proposed extension.[15] The ASF cited the strong preference among both its issuer and investor members for Web-based presentation of static pool information due to its efficiency, utility and effectiveness and the current lack of an adequate filing alternative.[16] The ABA Committees expressed their belief that the accommodation has been highly successful and of great value to investors.[17] Neither the ASF nor the ABA Committees was aware of any difficulties that investors or other market participants had locating, accessing, viewing or analyzing static pool information disclosed on a Web site.[18] For these reasons, among others, both the ASF and the ABA Committees requested that the filing accommodation be made permanent or, in the alternative, extended for a longer period of time.[19] Two commentators, in contrast, did not support the extension and suggested the Commission should require structured disclosure using an industry standard computer language.[20]

On December 15, 2009, we adopted the proposed one-year extension of the filing accommodation.[21] In the adopting release for the extension ("2009 Static Pool Extension Adopting Release"), we noted the staff's experience with the rule and that a vast majority of

[1] 17 CFR 232.312.

[2] 17 CFR 232.10 *et seq.*

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

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

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

[6] 17 CFR 229.1100 *et seq.*

[7] *See* Form S–1 (17 CFR 239.11) and Form S–3 (17 CFR 239.13) under the Securities Act. Static pool information indicates how groups, or static pools, of assets, such as those originated at different intervals, are performing over time. By presenting comparisons between originations at similar points in the assets' lives, the data allows the detection of patterns that may not be evident from overall portfolio numbers and thus may reveal a more informative picture of material elements of portfolio performance and risk.

[8] 17 CFR 229.1105.

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

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

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

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

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

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

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

[16] *See* letter from ASF.

[17] *See* letter from ABA Committees.

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

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

[20] *See* letters from Paul Wilkinson and EDGAR Online (noting they prefer immediately requiring static pool data be required in eXtensible Business Reporting Language (XBRL)). Subsequent to the 2009 Static Pool Extension Adopting Release (as defined below), we issued a comprehensive ABS proposal that included a proposed requirement to include asset-level information according to proposed standards and in a tagged data format using eXtensible Markup Language (XML). Additionally, we requested comment in the release as to whether static pool data should be required in an offering if there is an ongoing reporting requirement of asset-level data applicable to other pools of the sponsor of the same asset class.

[21] *Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities,* Release No. 33–9087 (Dec. 15, 2009) [74 FR 67812] (the "2009 Static Pool Extension Adopting Release"); *see also* 2009 Static Pool Extension Proposing Release.

residential mortgage-backed security issuers and a significant portion of ABS issuers in other asset classes have relied on the accommodation provided by the rule to disclose static pool information on an Internet Web site. We also noted that the staff of the Division of Corporation Finance was, at the time, engaged in a broad review of the Commission's regulation of ABS including disclosure, offering process, and reporting of ABS issuers and that along with this review, the staff of the Division of Corporation Finance was continuing to explore whether it was feasible to provide a filing mechanism for static pool information that fulfills the Commission's objectives. We also stated our belief that a proposal for a longer-term solution for providing static pool disclosure would be better considered together with other proposals on the regulations relating to the offer and sale of ABS.

On April 7, 2010, we proposed significant revisions to Regulation AB and other rules regarding the offering process, disclosure and reporting for asset-backed securities (the "2010 ABS Proposals").[22] In that release, we proposed to revise Rule 312 to remove the temporary accommodation set to expire on December 31, 2010 for asset-backed securities to post the static pool information required by Item 1105 on an Internet Web site under conditions set forth in Regulation AB. In lieu thereof, under the proposal, ABS issuers would be required to file all static pool information on EDGAR; however, we proposed to allow that such information be filed in Portable Document Format (PDF).[23] Also, in lieu of providing the static pool information in the prospectus, we proposed to allow issuers to file the disclosure on Form 8–K and incorporate it by reference. The comment period for the 2010 ABS Proposals expired on August 2, 2010.

II. Discussion of Proposed Amendment

We believe it is appropriate to further extend the filing accommodation provided by Rule 312, which is currently set to expire on December 31, 2010. As we stated in the 2009 Static Pool Extension Adopting Release, we believe a proposal for a long-term solution for providing static pool disclosure would be better considered together with other proposals to revise the regulations governing the offer and sale of ABS. On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act").[24] Among other things, the Act mandates a number of significant changes to the regulation of ABS offerings. In order to provide ample time for the Commission and its staff to give proper consideration to comments received on the 2010 ABS Proposals and in light of the changes to the regulations of ABS offerings that are mandated by the Act, we are proposing to extend the temporary filing accommodation set forth in Rule 312 of Regulation S–T for an additional eighteen months so that it would apply to filings with respect to ABS filed on or before June 30, 2012. Although we are proposing an eighteen-month extension of Rule 312, we may take action on the 2010 ABS Proposals, including the static pool proposal, at any time before the expiration of the proposed extension.

Under our proposed extension, the temporary filing accommodation set forth in Rule 312 of Regulation S–T would apply to filings with respect to ABS filed on or before June 30, 2012. During the proposed extension, the existing requirements of Rule 312 would continue to apply. Pursuant to these requirements, the registrant must disclose its intention to provide static pool information through a Web site in the prospectus included in the registration statement at the time of effectiveness and provide the specific Internet address where the static pool information is posted in the prospectus filed pursuant to Rule 424.[25] The registrant must maintain such information on the Web site unrestricted and free of charge for a period of not less than five years, indicate the date of any updates or changes to the information, undertake to provide any person without charge, upon request, a copy of the information as of the date of the prospectus if a subsequent update or change is made to the information and retain all versions of the information provided on the Web site for a period of not less than five years in a form that permits delivery to an investor or the Commission. In addition, the registration statement for the ABS must contain an undertaking pursuant to Item 512(l) of Regulation S–K[26] that the information provided on the Web site pursuant to Rule 312 is deemed to be part of the prospectus included in the registration statement.[27]

Request for Comment

We request and encourage any interested person to submit comments regarding the proposed amendment described above. In particular, we solicit comment on the following questions:

- Is a further extension of the filing accommodation appropriate? What would be the consequences if the accommodation lapsed on December 31, 2010 and static pool information was required in an EDGAR filing beginning January 1, 2011?
- Should we consider proposed changes to static pool disclosure together with the other proposals outlined in the 2010 ABS Proposing Release? If not, why should we separate the static pool disclosure proposal from the rest of the ABS related proposals?
- Would the proposed eighteen-month extension present particular problems for investors? Would a shorter or more narrowly tailored extension address those concerns?
- Is an eighteen-month extension the appropriate length for an extension? Are there reasons for a shorter (12 month) or longer (24 month) extension?

III. Paperwork Reduction Act

Rule 312 of Regulation S–T was adopted along with other new and amended rules and forms to address the registration, disclosure and reporting requirements for ABS under the Securities Act and the Exchange Act. In connection with this prior rulemaking, we submitted a request for approval of the "collection of information" requirements contained in the amendments and rules to the Office of Management and Budget ("OMB") in accordance with the Paperwork Reduction Act of 1995 ("PRA").[28] OMB approved these requirements.[29]

Item 1105 of Regulation AB[30] requires certain static pool information, to the extent material, to be provided in prospectuses included in registration

[22] *Asset-Backed Securities,* Release No. 33–9117 (Apr. 7, 2010) [75 FR 23328] (the "2010 ABS Proposing Release").

[23] Portable Document Format (PDF) is a file format created by Adobe Systems in 1993 for document exchange. PDF captures formatting information from a variety of desktop publishing applications, making it possible to send formatted documents and have them appear on the recipient's monitor or printer for free as they were intended. To view a file in PDF format, you need Adobe Reader, an application distributed by Adobe Systems.

[24] Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[25] 17 CFR 230.424.

[26] 17 CFR 229.512(l).

[27] 17 CFR 232.312. As we indicated in the 2004 Adopting Release, if the conditions of Rule 312 are satisfied, then the information will be deemed to be part of the prospectus included in the registration statement and thus subject to all liability provisions applicable to prospectuses and registration statements, including Section 11 of the Securities Act [15 U.S.C. 77k]. 2004 Adopting Release, Section III.B.4.b.

[28] 44 U.S.C. 3501 *et seq.*

[29] The collections of information to which Rule 312 of Regulation S–T relates are "Form S–1" (OMB Control No. 3235–0065) and "Form S–3" (OMB Control No. 3235–0073).

[30] 17 CFR 229.1105.

statements for ABS offerings.[31] Rule 312 is a temporary filing accommodation that permits the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.[32] The proposed amendment to Rule 312 further extends the existing temporary filing accommodation provided by the rule for an additional eighteen months. As is the case today, issuers may choose whether or not to take advantage of the accommodation. The conditions of Rule 312 remain otherwise unchanged. The disclosure requirements themselves, which are contained in Forms S–1 and S–3 under the Securities Act and require the provision of the information set forth in Item 1105 of Regulation AB, also remain unchanged. Therefore, the proposed amendment, if adopted, will not result in an increase or decrease in the costs and burdens imposed by the "collection of information" requirements previously approved by the OMB.

IV. Benefit-Cost Analysis

In this section, we examine the benefits and costs of our proposed amendment. We request that commentators provide views and supporting information as to the benefits and costs associated with the proposal. We seek estimates of these costs and benefits, as well as any costs and benefits not already identified.

A. Benefits

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

By further extending the accommodation provided by Rule 312, these benefits to both issuers and investors would continue to apply. As noted in the 2009 Static Pool Extension Adopting Release, based on the staff's experience since Rule 312 became effective in 2006, the vast majority of residential mortgage-backed security issuers and a significant portion of ABS issuers in other asset classes have relied on the accommodation provided by the rule to disclose static pool information on an Internet Web site.[34] If we do not further extend the accommodation provided by Rule 312, static pool information would be required in EDGAR filings beginning on January 1, 2011. We believe this would result in costs for issuers as they attempt to adjust their procedures in a short period of time in order to present the information in a format acceptable to the EDGAR system and could result in costs to investors if the information filed on EDGAR was presented in a less useful format.

As indicated above, on April 7, 2010, we issued a release proposing to require the filing of static pool information on EDGAR at the same time we proposed other amendments addressing the disclosure, offering process and reporting of asset-backed issuers.[35] We believe that the proposed eighteen-month extension to the temporary filing accommodation contained in Rule 312 will benefit both investors and issuers by maintaining a consistent approach to the filing of static pool information while we and our staff consider comments received on the proposed amendment to static pool filing together with our other proposals regarding the offering and sale of asset-backed securities and in light of the changes to the regulations of ABS offerings that are mandated by the Dodd-Frank Act.

B. Costs

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

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

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

We request comment on the amount of any additional costs issuers or investors may incur as a result of the proposed amendment.

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

[32] 17 CFR 232.312(a).

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

[34] *See* Section I of the 2009 Static Pool Extension Adopting Release.

[35] *See* 2010 ABS Proposing Release.

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

V. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or "SBREFA," [37] we solicit data to determine whether the proposal constitutes a "major" rule. Under SBREFA, a rule is considered "major" where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed amendment on the U.S. economy on an annual basis, any potential increase in costs or prices for consumers or individual industries, and any potential effect on competition, investment or innovation. Commentators are requested to provide empirical data and other factual support for their views if possible.

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

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

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

We request comment on whether the proposed amendment, if adopted, would promote efficiency, competition, and capital formation. Commentators are requested to provide empirical data and other factual support for their view to the extent possible.

VII. Regulatory Flexibility Act Certification

The Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed amendment contained in this release, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposal relates to the disclosure requirements for ABS in Securities Act registration statements. Securities Act Rule 157 [38] defines an issuer, other than an investment company, to be a "small business" or "small organization" if it had total assets of $5 million or less on the last day of its most recent fiscal year. As the depositor and issuing entity are most often limited purpose entities in an ABS transaction, we focused on the sponsor in analyzing the potential impact of the proposal under the Regulatory Flexibility Act. Based on our data, we only found one sponsor that could meet the definition of a small broker-dealer for purposes of the Regulatory Flexibility Act.[39] In addition, even if additional sponsors are small entities, the proposed amendment to Rule 312 would not have a significant economic impact on any such entities because it only extends a temporary filing accommodation that is currently in effect. Accordingly, the Commission does not believe that the extension, if adopted, would have a significant economic impact on a substantial number of small entities.

We encourage written comments on the Certification. Commentators are asked to describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VIII. Statutory Authority and Text of the Proposed Amendment

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

List of Subjects in 17 CFR Part 232

Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendment

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

[37] 5 U.S.C. 603.

[38] 17 CFR 230.157.

[39] This is based on data from Asset-Backed Alert. *See* Section IX of the 2010 ABS Proposing Release.

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

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

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

* * * * *

2. Amend § 232.312 paragraph (a) introductory text by removing "December 31, 2010" and in its place adding "June 30, 2012" in the first sentence.

By the Commission.

Dated: August 30, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–22019 Filed 9–2–10; 8:45 am]

BILLING CODE 8010–01–P

FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 35

[Docket No. RM10–17–000]

Demand Response Compensation in Organized Wholesale Energy Markets; Technical Conference

AGENCY: Federal Energy Regulatory Commission.

ACTION: Announcement of technical conference.

SUMMARY: This provides notice of the date and organization for the technical conference relating to the Supplemental Notice of Proposed Rulemaking (NOPR) and Notice of Technical Conference issued on August 2, 2010, and published in the **Federal Register** August 6, 2010. As described in the Supplemental NOPR, the conference will address the use of a net benefits test for determining when to compensate demand response providers and the allocation of costs associated with demand response.

DATES: The technical conference will be held at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, on September 13, 2010, beginning at 9 a.m.

FOR FURTHER INFORMATION CONTACT:

David Hunger (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8148, *david.hunger@ferc.gov.*

Caroline Daly (Technical Information), Office of Energy Policy and

Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8931, *Caroline.Daly@ferc.gov.*

Helen Dyson (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8856, *helen.dyson@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Supplemental Notice of Technical Conference and Notice of Comment Date

• August 27, 2010

Take notice that on September 13, 2010, the Federal Energy Regulatory Commission will convene a staff-led technical conference regarding two issues pertaining to demand response compensation, as previously announced: (1) If the Commission were to adopt a net benefits test for determining when to compensate demand response providers, what, if any, requirements should apply to the methods for determining net benefits; and (2) what, if any, requirements should apply to how the costs of demand response are allocated.[1] Comments concerning matters addressed at the technical conference and other issues related to this proceeding are due on or before October 13, 2010. Details concerning the technical conference and comment procedures are set forth below.

I. Technical Conference

The technical conference will be held on September 13, 2010, starting at 9 a.m. (EST), in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The conference will be open for the public to attend and advance registration is not required. Members of the Commission may attend the conference.

As indicated in the Supplemental NOPR, the panelists are invited to discuss their views on the possible adoption of a net benefits test, including the methodologies for determining net benefits, and a methodology for allocating the costs of demand response.

In addition to the above-referenced issues and other matters directly relevant to this proceeding, discussions at the public technical conference may relate to matters pending in the following additional proceedings: Docket No. ER10–765–000, California Independent System Operator, Inc. (CAISO); and Docket Nos. ER09–1049–000, ER09–1049–002, and ER09–1049–003, Midwest Independent System Operator, Inc.

The agenda for this conference is attached. If any changes occur, the revised agenda will be posted on the Calendar of Events page on the Commission's Web site, *http://www.ferc.gov,* prior to the event. To ensure that all speakers have an opportunity to address the issues, and to have ample time for discussion, speakers are asked to limit their opening remarks to five minutes. Speakers are requested to file their opening remarks in this docket and to bring 30 copies to the conference.

Transcripts of the conference will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646). They will be available for free on the Commission's eLibrary system and on the Calendar of Events approximately one week after the conference.

A free Webcast of the technical conference in this proceeding will be available. Anyone with Internet access interested in viewing this conference can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating the appropriate event in the Calendar. The Calendar of Events will contain a link to the applicable Webcast option. The Capitol Connection provides technical support for the Webcasts and offers the option of listening to the conferences via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100.

Commission 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 FAX to 202–208–2106 with the required accommodations.

For more information about the technical conference or comment procedures, please contact:

David Hunger (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8148, *David.Hunger@ferc.gov.*

Caroline Daly (Technical Information) Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8931, *Caroline.Daly@ferc.gov.*

Helen Dyson (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8856, *Helen.Dyson@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–21974 Filed 9–2–10; 8:45 am]

BILLING CODE 6717–01–P

[1] *Demand Response Compensation in Organized Wholesale Energy Markets, Notice of Proposed Rulemaking,* 75 FR 15,362, 130 FERC ¶ 61,213 (issued March 18, 2010), as supplemented by *Supplemental Notice of Proposed Rulemaking and Notice of Technical Conference (Supplemental Notice),* 75 FR 47,499, 132 FERC ¶ 61,094 (issued August 2, 2010). As stated in the *Supplemental Notice,* comments are due within 30 days of the date of the technical conference. *Supplemental Notice* P 19.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1908

[Docket No. OSHA–2010–0010]

RIN 1218–AC32

Consultation Agreements: Proposed Changes to Consultation Procedures

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: OSHA is proposing to revise its regulations for the federally-funded On-site Consultation Program to: Clarify the ability of the Assistant Secretary to define sites which would receive inspections regardless of Safety and Health Achievement and Recognition Program (SHARP) exemption status; allow Compliance Safety and Health Officers to proceed with enforcement visits resulting from referrals at sites undergoing Consultation visits and at sites that have been awarded SHARP status; and, limit the deletion period from OSHA's programmed inspection schedule for those employers participating in the SHARP program.

DATES: Written comments must be submitted on or before November 2, 2010.

ADDRESSES: *Written comments:* You may submit comments, identified by docket number OSHA–2010–0010, or regulatory information number (RIN) 1218–AC32, by any of the following methods:

Electronically: You may submit comments, and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions on-line for making electronic submissions;

Fax: If your submission, including attachments, does not exceed 10 pages,

you may fax them to the OSHA Docket Office at (202) 693–1648; or

Mail, hand delivery, express mail, messenger or courier service: You must submit your comments, and attachments to the OSHA Docket Office, Docket Number OSHA–2010–0010, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., *e.t.*

Instructions for submitting comments: All submissions must include the docket number (Docket No. OSHA–2010–0010) or the RIN number (RIN 1218–AC32) for this rulemaking. Because of security-related procedures, submission by regular mail may result in significant delay. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery and messenger or courier service.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information such as social security numbers and birthdates. For further information on submitting comments, plus additional information on the rulemaking process, see the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section of this notice.

Docket: To read or download submissions in response to this **Federal Register** notice, go to docket number OSHA–2010–0010, at *http://www.regulations.gov.* All submissions are listed in the *http://www.regulations.gov* index, however some information (*e.g.,* copyrighted material) is not publicly available to read or download through that Web page. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document as well as news releases and other relevant information, is available at OSHA's Web page at *http://www.osha.gov.*

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* MaryAnn Garrahan, Acting Director, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999. *For general and technical information:* Steven F. Witt, Director, OSHA Directorate of Cooperative and State Programs, Room N–3700, U.S. Department of Labor 200 Constitution Avenue, NW., Washington DC 20210; telephone: (202) 693–2200.

SUPPLEMENTARY INFORMATION:

I. Background: The OSHA On-Site Consultation Program

The Occupational Safety and Health Administration (OSHA), through cooperative agreements with agencies in 48 states, the District of Columbia and several U.S. territories, administers and provides Federal funding for the On-site Consultation Program. In the states of Kentucky and Washington, and in the Commonwealth of Puerto Rico, on-site consultation services are provided to employers in the private sector as part of an OSHA-approved state plan funded by Federal grants under section 23(g) of the Occupational Safety and Health (OSH) Act. The On-site Consultation Program provides well-trained professional safety and health personnel, at no cost and upon request of an employer, to conduct worksite visits to identify occupational hazards and provide advice on compliance with OSHA regulations and standards. Priority in providing on-site consultation visits is accorded to smaller employers in more hazardous industries.

The On-site Consultation Program was first authorized by Congressional appropriations action in 1974. On July 16, 1998, The On-site Consultation Program was codified as a new subsection of 21(d) of the Occupational Safety and Health Act with the enactment of the Occupational Safety and Health Administration Compliance Assistance Authorization Act (CAAA), Public Law 105–197. OSHA's On-site Consultation Program is administered in accordance with regulations at § 1908. These regulations provide, among other things, rules and procedures for State consultants performing worksite visits. Following the successful completion of an on-site consultation visit, employers may seek to participate in *OSHA Consultation's SHARP (Safety and Health Achievement Recognition Program).* The program recognizes employers who have demonstrated exemplary achievements in workplace safety and health by receiving a comprehensive safety and health consultation visit, correcting all workplace safety and health hazards, adopting and implementing effective safety and health management systems, and agreeing to request further consultative visits if major changes in working conditions or processes occur that may introduce new hazards. Part 1908 currently allows employers meeting these specific program requirements an exemption from programmed OSHA inspections for one year.

In this **Federal Register** notice, OSHA proposes revisions to these rules and procedures, as well as poses questions, and requests interested members of the public to submit any data, views, or arguments relevant to these proposed changes, during a 60-day public comment period.

II. Proposed Changes to 29 CFR Part 1908

Revisions Delineating the Relationship With OSHA Enforcement

1. Other Critical Inspections

Under current § 1908.7(b)(4)(ii), although worksites granted Safety and Health Achievement Recognition Program (SHARP) status and those working towards achieving SHARP status (Pre-SHARP) are either deleted or deferred from the programmed inspection lists, they are still eligible for non-programmed inspections in the following categories:

A. Imminent danger.
B. Fatality/Catastrophe.
C. Formal Complaints.

At times, however, special circumstances may make it necessary to conduct an inspection or investigation at an establishment ordinarily exempt because of the employer's participation in the OSHA On-site Consultation Program. One such situation might arise in connection with workplace accidents that generate widespread public concern about a particular hazard or substance. As part of a national response to these hazards, OSHA may need to conduct programmed inspections of all sites within a specific industry. An onsite OSHA investigation might also be appropriate in the rare circumstance where a subsequent accident or other event at a particular establishment makes it advisable for OSHA to revisit the site. For this reason OSHA is proposing the addition of a fourth category, "other critical inspections as determined by the Assistant Secretary," to the list of permissible inspections for worksites which have otherwise been deleted or deferred from programmed inspection lists as a result of SHARP or Pre-SHARP participation. Although Section 21(d) does not contain an explicit exception to allow for programmed inspections under these

circumstances, it does allow OSHA discretion related to programmed exceptions by stating that an employer "may" be exempt from an inspection if the employer meets the criteria for recognition and exemption delineated by the statute. This addition is also consistent with current requirements of part 1908, as this particular exception already exists in § 1908.7(b)(2)(iv), which provides the same criteria for termination of an "in progress" consultation visit. It is not possible to define or predict every circumstance where an investigation may be necessary at a site that is deferred or deleted from OSHA's programmed inspection lists as a result of consultation activity; accordingly, the exception is worded in very general terms. To ensure this exception is applied only in exceptional circumstances where an onsite investigation is clearly warranted, such investigations must be approved by the Assistant Secretary.

In addition, current § 1908.7(b)(2) is internally inconsistent with the provisions related to pre-SHARP and SHARP in its use of the term "Complaints" as opposed to "Formal Complaints" used in current § 1908.7(b)(4)(ii) when describing the categories in which an employer with an in-progress consultation visit may be subject to termination of the visit and a subsequent enforcement inspection. While such distinctions do exist between the terms "Formal Complaints" and "Complaints," OSHA general enforcement policy treats all types of complaints in a similar fashion. As a result, OSHA does not need to distinguish between Formal Complaints and Complaints when ascertaining the need to interrupt "in progress" or SHARP visits. Therefore, for consistency, OSHA is proposing to use the same language and descriptions for the interruptions to all consultation visits.

2. Referrals

OSHA proposes to add a new category which will allow for termination of an in-progress onsite consultative visit, as well as enforcement inspections at worksites that are otherwise in pre-SHARP or SHARP status. Under the current provisions of part 1908, enforcement activity may be initiated under the following categories:

(i) Imminent danger investigations;

(ii) Fatality/catastrophe investigations;

(iii) Complaint investigations;

(iv) Other critical inspections as determined by the Assistant Secretary.

Current OSHA enforcement policy allows inspections to be initiated following a referral and are considered a type of non-programmed inspection, similar to a complaint. In some instances, referrals may identify hazards or suspected hazards that will necessitate termination of consultation activity to allow for a non-programmed enforcement inspection of that particular worksite. With this change, referrals will now be a basis to initiate enforcement activity at worksites subject to deferrals or deletions from programmed inspections as a result of either an in progress consultation visit, or a worksite in pre-SHARP or SHARP status. As a result of the above changes, unprogrammed inspections will be treated consistently for "in progress" interruptions and interruptions of SHARP and Pre-SHARP status, and will occur at the discretion of the Regional Administrator (RA).

3. Removal From Programmed Inspection Schedules

OSHA is proposing to revise paragraph § 1908.7(b)(4), *Programmed Inspection Schedule,* to change the deletion period from OSHA's programmed inspections list. The regulation currently states that employers will have their names removed from OSHA's programmed inspection schedule for a period of "not less than one year." Today's proposed rule would amend the wording in part 1908 to more closely conform to the exemption period prescribed by section 21(d) of the Occupational Safety and Health Act, and would provide that an employer that meets the requirements set forth in section 21(d) will have the name of its establishment removed from the general schedule inspection list for a period of one year.

The proposed rule would also address the issue of inspection exemptions beyond one year. While 21(d) authorizes a one-year exemption for a consultation participant that successfully meets the listed criteria, OSHA retains wide discretion under other provisions of the OSH Act to set priorities and establish inspection schedules. Section 8(g) of the Act empowers OSHA to issue rules and regulations dealing with the inspection of work establishments. *Department of Labor* v. *Kast Metals Corp. 744 F.2d 1145, 1151 (5th Cir. 1984).* The agency will never have sufficient staff to inspect every establishment, and has authority under the OSH Act to schedule programmed inspections in a way that makes efficient use of its compliance resources where they can have the greatest impact on worker safety. *Industrial Steel Prod. Co.* v. *OSHA,* 845 F.2d 1330, 1331 (5th Cir. 1988). Rearranging the priority of particular establishments within an inspection plan is reasonable and permissible "because it furthers OSHA's legitimate goal of efficient resource allocation." *Id.* Many specialized inspection plans developed by OSHA, such as National Emphasis Programs, require investigation of hazards that potentially exist at many thousands of establishments across the country. Having the resources to conduct only a finite number of programmed inspections, OSHA must direct its resources to those establishments most likely to present uncorrected hazards. Thus, for example, instead of inspecting a facility that has had a wall-to-wall visit by an On-site Consultation professional in the past two years, OSHA may reasonably decide to inspect an establishment that has had no OSHA intervention of any kind. Accordingly, existing policy allows for deletion periods extending beyond one year.

While acknowledging OSHA's lawful discretion to establish inspection programs that provide for deletions from the programmed inspection schedule beyond the basic one-year programmed inspection deletion under 21(d), the proposed rule would place a one-year limit on such additional deletions. An employer's fulfillment of the SHARP participation requirements involve completing all the steps described in 21(d), a process that can take three years or more. Small businesses, which are the focus of the consultation program, are extremely dynamic and changeable. Small enterprises can more quickly change their operations, equipment and safety procedures without the investment of time and materials that a larger business might require.

OSHA recognizes that employer participation in voluntary programs such as SHARP contributes greatly to the statutory goal of eliminating hazards, and enables the agency to better allocate its scarce compliance resources. However, it is also important that OSHA retain authority to conduct programmed inspections, and that establishments be aware they may be the subject of such an inspection. Such awareness may itself be an incentive for vigorous compliance efforts. *See Reich* v. *OSHRC,* 102 F.3d 1200, 1203 (11th Cir. 1997). On balance, OSHA believes that, after the expiration of the one-year inspection exemption provided under 21(d), the name of an establishment may be deleted from the programmed inspection schedule for no more than one additional year.

4. Clarification of Terminology

Along with the changes proposed above, OSHA also wishes to clarify terminology used in Part 1908. Thus, the types of enforcement exemptions for which a worksite may be eligible after receiving a safety and health consultation visit should be defined and described in the same terminology used in the Site Specific Targeting (SST) and other OSHA enforcement guidance. OSHA is proposing, for consistency with terminology used in enforcement programs such as the SST, to use the terms "deferral" and "deletion" when describing exemptions from programmed inspections. Any deferrals and deletions are subject to the time periods specified in the proposal and not limited by inspection lists under the SST.

III. Preliminary Economic Analysis

OSHA's On-site Consultation Program is voluntary, both for employers who seek this no-cost service and for States that provide it. The goal of the proposed revisions to existing Consultation Agreement regulations is to: (a) Clarify the ability of the Assistant Secretary to define sites which would receive inspections regardless of Safety and Health Achievement and Recognition Program (SHARP) exemption status; (b) allow Compliance Safety and Health Officers to proceed with enforcement visits resulting from referrals at sites undergoing Consultation visits and at sites that have been awarded SHARP status; (c) limit the deletion period from OSHA's programmed inspection schedule for those employers participating in the SHARP program. OSHA finds that the proposed revisions will not impose any new cost on affected employers.

The Agency has not quantified the potential cost reductions to employers or benefits to employees from the proposed revisions to the existing rule. The Agency has preliminarily concluded that no additional costs will be imposed on employers who choose to utilize State On-site Consultation project services and, therefore, no adverse economic impact on those employers is foreseen.

IV. Executive Order 12866

In terms of economic impact, the rule being proposed does not constitute an economically significant regulation within the meaning of Executive Order 12866, because it does not have an annual effect on the economy of $100 million or more; materially affect any single sector of the economy; interfere with the programs of other Agencies; materially affect the budgetary impact of grant or entitlement programs; nor result in other adverse effects of the kind specified in the Executive Order.

V. Regulatory Flexibility Act Certification

The On-site Consultation Program is designed to aid small employers, the same population identified for the protections of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). Since the proposed revisions do not impose new costs on small employers, the Assistant Secretary certifies that the regulation will not have a significant economic impact on a substantial number of small entities. Participation in the On-site Consultation Program both by States and employers is voluntary. State agencies that have elected to furnish On-site Consultation services under cooperative agreements with OSHA are not covered entities under the RFA. Since the On-site Consultation Program is historically targeted to small, high-hazard workplaces, employers affected by the rule would tend to include a substantial number of small entities, but, as indicated in the foregoing discussion of regulatory impacts, the proposal should have no measurable economic impact on employers.

VI. Environmental Impact

The proposed standard has been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (CEQ) (40 CFR part 1500), and Department of Labor (DOL) NEPA Procedures (29 CFR part 11). The provisions of the rule focus on policies pertaining to exemptions from programmed OSHA inspections. Consequently, no major negative impact associated with the rule is foreseen on air, water or soil quality, plant or animal life, the use of land or other aspects of the environment.

VII. Unfunded Mandates

For the purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, and/or tribal governments, or increased expenditures by the private sector of more than $100 million in any year.

VIII. Paperwork Reduction Act

After a thorough analysis of the proposed revisions to part 1908, OSHA believes that the proposal imposes no new collection-of-information requirements (*i.e.,* paperwork). The current collections-of-information for On-site Consultation Agreements (part 1908) are approved under Office of Management and Budget Control Number 1218–0110.

The proposed rule clarifies the ability of the Assistant Secretary to define sites which would receive inspections, allows referrals to initiate inspections at sites that are currently undergoing a consultative visit, and asks the question as to how long a deletion period from the programmed OSHA inspection schedule for those employers working towards or participating in OSHA's recognition and exemption program should last.

On-site Consultation Program visits generally impose no paperwork requirements on employers. Specifically, all that is asked of the employer is that the employer agrees to correct all serious hazards identified during the inspection and post a list of serious hazards identified during the visit. Alternatively (as noted in the On-site Consultation Agreements' approved collection of information package 1218–0110), there is a paperwork burden on the State Consultation Projects. However, the paperwork burden on the States comes from the On-site Consultation visit process. The proposed changes to Part 1908 will not affect the consultation process, but rather only the benefits of the program to employers. As a result, since the consultation process remains exactly the same, no new or additional paperwork burden will be imposed on the States as a result of the proposed changes to the rule.

Interested parties who wish to comment on OSHA's determination that this proposal contains no additional paperwork requirements must send their written comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, 726 Jackson Place, NW., Washington, DC 20503. Parties are also encouraged to submit their comments on this paperwork determination to OSHA along with any other comments on the proposed rule.

IX. Federalism

The proposed revisions to part 1908 have been reviewed under Executive Order 12612, Federalism (52 FR 41685; October 30, 1987), which sets forth fundamental federalism principles, federalism policymaking criteria, and provides for consultation by Federal agencies with state or local governments when policies are being formulated

which potentially affect them. Federal OSHA meets regularly with representatives of state-operated On-site Consultation Programs, both individually and at meetings of the National Association of Occupational Safety and Health Consultation Programs (OSHCON). OSHA also maintains extensive and frequent communications with its State Plan partner agencies, both individual States and through the Occupational Safety and Health State Plan Association (OSHSPA), the association of State Plan States. The issues covered by the proposed revisions to part 1908 have been discussed with the States. The States also have an opportunity to submit comments during the 60-day public comment period.

The revisions to part 1908 being proposed are generally consistent with the requirements and procedures under which OSHA and the States have administered the On-site Consultation Program for many years. OSHA has reviewed the proposed revisions and finds them to be consistent with the policymaking criteria outlined in Executive Order 12612. It should be noted that cooperative agreements pursuant to section 21(d) of the OSH Act, and State Plans submitted and approved under section 18 of the Act, are entirely voluntary Federal programs which do not involve imposition of an intergovernmental mandate [2 U.S.C. 1502, 658(5)]. Under § 1908.1(c) States and territories operating approved Plans under section 18 of the Act shall, in accordance with sections 18(b) and 18(c)(2), establish enforcement policies applicable to the safety and health issues covered by the State Plan, which are at least as effective as the enforcement policies established by this part, including: (1) A recognition and exemption program, (2) inspection deferral policies for employers working to achieve recognition and exemption status, and (3) policies for continuing inspections.

X. Public Participation

Interested persons including State Consultation agencies, employers and employees who have experience with or an interest in the On-site Consultation Program are invited to submit written data, views and arguments with respect to the proposed amendments part 1908 during a 60-day public comment period. OSHA is interested, among other things, in the experiences of State Consultation agencies and other affected parties regarding the following matters:

—How would allowing the Assistant Secretary to define sites which would receive inspections regardless of SHARP status affect the willingness of employers to seek SHARP recognition?

—How would including referrals as a reason to interrupt Consultation visits affect employers' willingness to seek On-site Consultation Program services?

—How would limiting the deletion period from the programmed inspection list for employers achieving SHARP affect the On-site Consultation Program?

—What would be the implications of eliminating the awarding of deferrals for those working to achieve SHARP recognition status?

—Are there different resource implications dependent on the length of the deletion period?

Comments must be received on or before November 2, 2010, and two copies must be submitted to the OSHA Docket Office, Docket No. OSHA–2010–0010, U.S. Department of Labor, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210. Comments under 10 pages long may be sent via FAX to (202) 693–2527 but must be followed by an original in a mailed submission. Written submissions must clearly identify the issue addressed and the position taken with regard to each issue. All comments submitted to the docket during this proceeding will be open for public inspection and copying at the location specified above.

List of Subjects in 29 CFR Part 1908

Occupational safety and health, Programmed inspection schedule, Deletion program, Recognition and exemption, Inspections.

Authority and Signature

This document was prepared under the direction of David Michaels, PhD MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under sections 7(c), 8, 18, 21(d) and 23(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656, 657, 667, 670 672) and Secretary of Labor's Order No. 6–96 (62 FR 111), January 2, 1997; No. 3–2000 (65 FR 50017), No. 5–2007 (72 FR 31159).

Signed at Washington, DC, this 27th day of August 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Part 1908 of Title 29 of the Code of Federal Regulations is hereby proposed to be amended as follows:

PART 1908—CONSULTATION AGREEMENTS—[AMENDED]

1. Revise the authority citation for part 1908 to read as follows:

Authority: Sections 7(c), 8, 18, 21(d) and 23(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656, 657, 667, 670 672) and Secretary of Labor's Order No. 6–96 (62 FR 111); No. 3–2000 (65 FR 50017), No. 5–2007 (72 FR 31159).

2. In § 1908.1, revise paragraph (c) to read as follows:

§ 1908.1 Purpose and scope.

* * * * *

(c) States operating approved Plans under section 18 of the Act shall, in accord with section 18(b), establish enforcement policies applicable to the safety and health issues covered by the State Plan which are at least as effective as the enforcement policies established by this part, including:

(1) A recognition and exemption program (§ 1908.7(b)(4)(i)(B));

(2) Inspection deferral policies for employers working to achieve recognition and exemption status (§ 1908.7(b)(4)(i)(A)); and

(3) Policies for continuing inspections at worksites that have received exemption status (§ 1908.7(b)(4)(ii)).

3. In § 1908.7, revise paragraphs (b)(2), (b)(4)(i), and (b)(4)(ii) to read as follows:

§ 1908.7 Relationship to enforcement.

* * * * *

(b) * * *

(2) The Consultant shall terminate an onsite consultative visit already in progress where one of the following kinds of OSHA compliance inspections is about to take place:

(i) Imminent danger inspections;

(ii) Fatality/catastrophe inspections;

(iii) Complaint inspections;

(iv) Referral inspections as determined necessary by the RA;

(iv) Other critical inspections as determined by the Assistant Secretary.

* * * * *

(4) * * *

(i) *Deletion, Deferral, Recognition and Exemption Programs*—(A) *Preparation for Recognition and Exemption Program.* When an employer requests participation in a recognition and exemption program, and undergoes a consultative visit covering all conditions and operations in the place of employment related to occupational safety and health; corrects all hazards that were identified during the course of the consultative visit within established time frames; has begun to implement all the elements of an effective safety and health program; and agrees to request a

consultative visit if major changes in working conditions or work processes occur which may introduce new hazards, OSHA's Programmed Inspections at that particular site may be deferred while the employer is working to achieve recognition and exemption status.

(B) Employers who meet all the requirements for recognition and exemption will have the names of their establishments removed from OSHA's Programmed Inspection Schedule for a period of one year. The exemption period will extend from the date of issuance by the Regional Office of the certificate of recognition. OSHA may in its discretion establish inspection programs that provide for an additional deletion period, but such additional deletion period shall not exceed one year.

(ii) *Inspections.* OSHA will continue to make inspections in the following categories at sites that achieved recognition status and have been granted deletions from OSHA's Programmed Inspection Schedule; and at sites granted inspection deferrals as provided for under paragraph (b)(4)(i)(A) of this section:

(A) Imminent danger inspections;

(B) Fatality/catastrophe inspections;

(C) Complaint inspections;

(D) Referral inspections as determined necessary by the RA;

(E) Other critical inspections as determined by the Assistant Secretary.

* * * * *

[FR Doc. 2010–22058 Filed 9–2–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0265]

RIN 1625—AA09

Drawbridge Operation Regulations; Curtis Creek, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking concerning the operation of the Pennington Avenue Bridge, at mile 0.9, across Curtis Creek at Baltimore, MD. The requested change would have allowed the bridge to operate from a remote location at the City of Baltimore Transportation Management Center. The proposed rule is being withdrawn because of the many concerned comments sent from the primary waterway users that transit the bridge.

DATES: The notice of proposed rulemaking is withdrawn on September 3, 2010.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2010–0265 in the "Keyword" box and then clicking "Search".

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or e-mail Lindsey Middleton, Fifth Coast Guard District; telephone (757) 398–6629, e-mail *Lindsey.R.Middleton@uscg.mil.* If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2010, we published an NPRM entitled "Drawbridge Operation Regulation Curtis Creek, Baltimore, MD" in the **Federal Register** (75 FR 30747–30750). The rulemaking concerned eliminating the need for a bridge tender by allowing the bridge to be operated from a remote location at the City of Baltimore Transportation Management Center. This proposed change would have maintained the bridge's current operating schedule set forth in 33 CFR 117.5 that states: Drawbridges shall open promptly and fully for the passage of vessels when a request to open is given.

Withdrawal

The City of Baltimore, the owner of the Pennington Avenue Bridge, had requested a change in the operating procedures to allow the bridge to be opened from a remote location at the City of Baltimore Transportation Management Center.

The Coast Guard received several comments opposing the proposed rule change. We conducted a lengthy and thorough investigation that included a site visit of the bridge and the Baltimore City Transportation Management Center. We also conducted a meeting at the Coast Guard Yard in Baltimore, MD with the primary waterway users that transit the bridge, staff from the City of Baltimore's Transportation division, and their contracted consulting company.

Our investigation along with the majority of the comments revealed that the rulemaking could impose critical service delays to the various industries that rely on a timely bridge opening. This withdrawal is based on the reason that this change would not improve the bridge usage for roadway and waterway users.

Authority: This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

Dated: August 15, 2010,

William D. Lee,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2010–22034 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 76

RIN 2900–AN43

U.S. Paralympics Monthly Assistance Allowance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish regulations for the payment of a monthly assistance allowance to military veterans training to make the United States Paralympics team, as authorized by section 703 of the Veterans' Benefits Improvement Act of 2008. The proposed rule would facilitate the payment of a monthly assistance allowance to a veteran with a service-connected or nonservice-connected disability if the veteran is competing for a slot on or selected for the United States Paralympics team or is residing at a United States Paralympics training center. The proposed rule would require submission of an application to establish eligibility for the allowance and certification by the United States Paralympics.

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

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–

AN43—U.S. Paralympics Monthly Assistance Allowance." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments are available online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Matt Bristol, Office of National Veterans Sports Programs and Special Events (002C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (202) 461–7447. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In 2008, Congress amended title 38, United States Code, to add a new section 322 regarding establishment of the Department of Veterans Affairs (VA) Office of National Veterans Sports Programs and Special Events. Public Law 110–389, sec. 703. Subject to the availability of appropriations, Congress authorized VA to provide certain disabled veterans, who participate in programs or events sanctioned by the United States Paralympics (USP) or who reside at a USP training center, a monthly assistance allowance. 38 U.S.C. 322. VA proposes to amend its regulations to implement the allowance.

Under section 322, VA may provide an allowance to a veteran with a disability who is: (1) Invited by the USP to compete for a slot on, or selected for, the USP Team, for any month or part of any month in which the veteran is training or competing in any event sponsored by the USP or the International Paralympic Committee (IPC); or (2) residing at a USP training center in connection with any paralympic training or competition. The USP estimates that up to 70 veterans may qualify for this allowance annually.

We propose to implement the allowance in new 38 CFR part 76. Although section 322(d) authorizes VA to pay the allowance to a veteran with a disability invited by the "United States Paralympics, Inc.," to compete for a slot on, or selected for, the Paralympic Team, that entity is now designated as the "United States Paralympics," and is a division of the United States Olympic Committee (USOC). Accordingly, we propose to refer to the USP, rather than the United States Paralympics, Inc.

The proposed rule would include certain terms that must be defined for the purposes of part 76. In proposed § 76.1(a), we would define the term "disability" to mean "a service-connected or nonservice-connected disability, which meets the criteria prescribed by the IPC's Classification Code and International Standards, November 2007 edition, available at *http://www.paralympic.org/export/sites/default/IPC/IPC_Handbook/Section_2/2008_2_Classification_Code6.pdf,* and qualifies the veteran for participation in a sport sanctioned by the United States Paralympics." This document will be made available to the public via a VA-controlled source for purposes of the final rule, and this definition may be changed accordingly. This definition would be based on VA's authority in section 322(d) to pay the allowance "to a veteran with a disability," which we interpret to mean a veteran with a service-connected or nonservice-connected disability. In section 322(d)(3) Congress required VA to give priority to veterans with service-connected disabilities in providing the allowance. By setting up a priority in payment, Congress demonstrated its intent to allow veterans with both service-connected and nonservice-connected disabilities to qualify for the allowance if funding is available.

As stated previously, section 322(d) authorizes VA to "provide a monthly assistance allowance to a veteran with a disability invited by the [USP] to compete for a slot on, or selected for, the Paralympic Team for any month in which the veteran is training or competing in any event sanctioned by the [USP], or who is residing at a [USP] training center." In selecting individuals for international competition, USP must ensure competitors' compliance with the IPC Code and Standards because most individuals selected to compete for a slot on, or selected for, the Paralympic Team, which is associated with the USP, will ultimately compete internationally. Therefore, we propose to pay the allowance to those veterans with disabilities that meet IPC criteria.

We propose to define the term "Paralympic Training Center" as referring to the following locations: the United States Olympic Training Center at Chula Vista, California; the United States Olympic Training Center at Colorado Springs, Colorado; the United States Olympic Training Center at Lake Placid, New York; the Lakeshore Foundation in Birmingham, Alabama; and the University of Central Oklahoma in Edmond, Oklahoma.

As stated previously, section 322(d)(3) requires VA to give priority in payment of the allowance to veterans with service-connected disabilities. We propose to periodically assess funding levels to determine if funding for payment of the allowance will be sufficient to cover all applicants. Based on the estimated 70 veterans that may qualify for the allowance annually and the appropriated $2,000,000 in funding, VA believes it will be able to pay all applicants. If a periodic assessment reveals that funding for the allowance will be insufficient to pay all applicants, we propose to make payments in full first to veterans with service-connected disabilities.

Section 322(d) authorizes funding for the allowance beginning in fiscal year 2010, or beginning October 1, 2009. Because funding has been available from October 1, 2009, we propose to allow retroactive payment for paralympic training, competition, or residence that occurred on or after October 1, 2009, if an application and appropriate certification are submitted to VA within 1 year of the effective date of this regulation. Based on the number of applications received from individuals with both service-connected and nonservice-connected disabilities within the first year, we will determine if funding for payment of the allowance for fiscal year 2010 is sufficient to pay fully all eligible applicants. If funding is insufficient to pay all eligible applicants, we propose to first pay those eligible applicants with service-connected disabilities. To the extent funds remain to pay eligible applicants with nonservice-connected disabilities, we will make payments in the order of receipt of applications. We believe this is the most equitable method for making retroactive payments to nonservice-connected veterans in case of limited funds.

To allow for effective administration of payments of the allowance, and to ensure that veterans who are entitled to the allowance are accurately and timely paid, we propose to require qualifying veterans to submit an application with information pertinent to payment, including information pertaining to dependents, who may justify a higher rate of allowance. We also propose to require certification from the USP of participation in training or competition sponsored by the USP or the IPC, or residence at a USP Training Center. Such certification shall specify the dates of training, competition, or residence for which payment is requested so that VA has verification that payment is due.

Section 322(d)(2) requires the amount of the allowance to be equal to the monthly amount of subsistence allowance that would be payable to a veteran under 38 U.S.C. chapter 31 of this title if the veteran were eligible for and entitled to rehabilitation under

chapter 31. We interpret section 322(d)(2) to refer to the monthly amount of subsistence allowance payable to a veteran for full-time institutional training under chapter 31 because an individual who is participating in USP or IPC training or competition or residing at a USP training center will be doing so on a full-time basis. Furthermore, veterans participating in full-time institutional training under chapter 31 is the most comparable category of recipients of chapter 31 benefits to the category of individuals participating in USP or IPC training or competition or residing at a USP training center. Accordingly, we propose to base the amount of the allowance payable to individuals on the rate paid as a subsistence allowance for a full-time institutional program under chapter 31 of title 38, United States Code. (*See* 38 U.S.C. 3108(b)).

We propose to allow an individual to be paid for each day of qualified training, competition, or residence at 1/30 of the monthly rate, or on a monthly basis for a continuous month of qualified training, competition, or residence. This recognizes the likely temporal irregularities that will occur with respect to periods of training, competition, or residence, and is consistent with long-standing calculation methods employed by VA to address certain payments and entitlement-charge determinations for partial months under its education and vocational rehabilitation programs. Frequency of payment of the allowance will depend on the timing of the filing of a claim for a given period of time. Because our statutory authority requires that we base the amount of the allowance on the monthly amount of subsistence allowance that would be payable to a veteran under chapter 31, and, under chapter 31, an additional amount is payable to veterans with dependents, we propose to pay an additional amount of allowance to veterans with dependents based on the rate paid as a subsistence allowance for a full-time institutional program under chapter 31 of title 38, United States Code to veterans with dependents.

Incorporation by Reference

In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, we propose to incorporate by reference *IPC's* Classification Code and International Standards, November 2007 edition, at *http://www.paralympic.org/export/sites/default/IPC/IPC_Handbook/Section_2/2008_2_Classification_Code6.pdf.* This document will be made available to the public via a VA-controlled source for purposes of the final rule. We will request approval of this incorporation by reference from the Office of the Federal Register. This document for which we are seeking incorporation by reference is available for inspection by appointment (call (202) 461–4902 for appointment) at the Department of Veterans Affairs, Office of Regulation Policy and Management, Room 1063B, 810 Vermont Avenue, NW., Washington DC 20420, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

Comment Period

Although under the rulemaking guidelines in Executive Order 12866, VA ordinarily provides a 60-day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 30 days. VA does not expect to receive a large number of comments on this proposed rule because this regulation places minimal burden on affected parties and implements a new benefit. Furthermore, most of the proposed rule's requirements are mandated by 38 U.S.C. 322. Lastly, VA believes that implementation of this regulation is urgent to assist veterans training for the United States Paralympics team. Accordingly, VA has provided that comments must be received within 30 days of publication in the **Federal Register**.

Unfunded Mandates

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

Paperwork Reduction Act

This document contains two provisions (§ 76.3(a) and § 76.3(b)) constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB) The Office of National Veterans Sports Programs and Special Events is developing two new forms for this allowance—an application and a certification of training. ONVSPSE will submit these forms to OMB, along with justification paperwork, as part of the proposed regulation.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov*. Comments should indicate that they are submitted in response to "RIN 2900–AN43."

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing 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.

The proposed addition of 38 CFR Part 76 contains collections of information under the Paperwork Reduction Act for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

Title: VA Form 0918b, "Application for Monthly Assistance Allowance for Veterans in Connection with the United States Paralympics."

Summary of collection of information: This new collection of information in proposed 38 CFR 76.3(a) is required for VA to administer benefits to veterans in accordance with section 703 of Public Law 110–389. This form is to be completed by veterans who are applying to receive this allowance in accordance

with VA regulations. The application will be used to verify the veteran's mailing address, confirm that he or she has been accepted by the USP to compete in a specific Paralympic sport, and to determine their marital status and number of dependents for the purpose of assessing payment amounts.

Description of need for information and proposed use of information: This collection is necessary in order for the program office to identify allowance recipients and determine payment amounts for veterans authorized to receive this allowance.

Description of likely respondents: Respondents include veterans who have been invited to participate in Paralympic training, competition, or residence at a Paralympic Training Center.

Estimated number of respondents: We expect to have 100 total respondents for VA Form 0918b, which is a one-time collection for each particular veteran for any fiscal year for which Congress has appropriated money for benefits.

Estimated frequency of responses: VA Form 0918b is a one-time collection for each veteran.

Estimated average burden per response: 20 minutes.

Estimated total annual reporting and recordkeeping burden: 2000 reporting hours burden for FY2011.

Recordkeeping burden: 5 hours.

Title: VA Form 0918a, "Certification of United States Paralympics Training Status."

Summary of collection of information: This new collection of information in proposed 38 CFR 76.3(b) is required for VA to administer benefits to veterans in accordance with section 703 of Public Law 110–389. This form is to certify that an eligible veteran has participated in Paralympic training, competition, or residence at a Paralympic Training Center during a specified period of time and has met the requirements necessary for payment of the monthly assistance allowance.

Description of need for information and proposed use of information: This collection is necessary in order for VA to verify that a veteran has indeed participated in qualifying training, competition, or been in residence at a Paralympic Training Center for the relevant period for which the veteran is claiming benefits.

Description of likely respondents: The paralympic coaches of veterans participating in qualifying training, competition, or residence at a Paralympic Training Center.

Estimated number of respondents: We expect to have roughly 100 respondents complete VA Form 0918a monthly or quarterly for each Fiscal Year in which appropriated funds are available, depending on the veteran's frequency of training, competition, or residence at a Paralypmic Training Center.

Estimated frequency of responses: VA Form 0918a is to be submitted monthly or quarterly depending on the veteran's frequency of training, competition, or residence at a Paralympic Training Facility.

Estimated average burden per response: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 2000 reporting hours for each Fiscal Year in which appropriated funds are available. Recordkeeping burden: 25 hours in each Fiscal Year in which appropriated funds are available.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would primarily affect only individuals and would impose only a minor certification requirement upon the United States Paralympics. Therefore, this proposed amendment is exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

This proposed rule would not affect VA programs listed in the Catalog of Federal Domestic Assistance.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on July 23, 2010, for publication.

List of Subjects in 38 CFR Part 76

Certification, Day care, Disabled, Eligibility, Individuals with disabilities, Monthly assistance allowance, Overpayment, Oversight, Physically challenged athletes, Service-connected disabilities, Sport event, Travel and transportation expenses, U.S. Paralympics training center, Veterans.

Dated: August 30, 2010.

Robert C. McFetridge,

Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR chapter I to add a new part 76 to read as follows:

PART 76—MONTHLY ASSISTANCE ALLOWANCE FOR VETERANS IN CONNECTION WITH THE UNITED STATES PARALYMPICS

Sec.
76.1 Definitions.
76.2 Assistance allowance.
76.3 Application and certification.
76.4 Amount of allowance.

Authority: 38 U.S.C. 501, 322(d), and as stated in specific sections.

§ 76.1 Definitions.

For purposes of part 76, the following definitions apply:

Disability means a service-connected or nonservice-connected disability which meets the criteria prescribed by the International Paralympic Committee's (IPC) Classification Code and International Standards, November

2007 edition, available at *http://www.paralympic.org/export/sites/default/IPC/IPC_Handbook/Section_2/2008_2_Classification_Code6.pdf,* and qualifies the veteran for participation in a sport sanctioned by the United States Paralympics.

(Authority: 38 U.S.C. 322(d))

Paralympic Training Center refers to the following locations: the United States Olympic Training Center at Chula Vista, California; the United States Olympic Training Center at Colorado Springs, Colorado; the United States Olympic Training Center at Lake Placid, New York; the Lakeshore Foundation in Birmingham, Alabama; and the University of Central Oklahoma in Edmond, Oklahoma.

(Authority: 38 U.S.C. 322(d))

§ 76.2 Assistance allowance.

(a) VA will pay an allowance to a veteran with a disability who is:

(1) Invited by the United States Paralympics (USP) to compete for a slot on, or selected for, the USP Team for any month or part of any month in which the veteran is training or competing in any event sponsored by the USP or the IPC; or

(2) Residing at a USP training center in connection with any paralympic training or competition for the period certified under § 76.3.

(b) In providing this allowance, VA will periodically assess funding for the allowance. If a periodic assessment reveals that funding is insufficient to pay all applicants, VA will first pay in full veterans with service-connected disabilities, and then pay others in full in the order in which their completed applications are received.

(Authority: 38 U.S.C. 322(d))

§ 76.3 Application and certification.

To receive an allowance—

(a) A veteran must submit a complete application identifying any dependents upon which a higher payable rate of allowance may be based; and

(b) USP must provide certification of the veteran's participation in training or competition sponsored by the USP or the IPC, or residence at a USP training center, for the period for which payment is requested. The certification must specify whether the payment is due for training, competition, or residence, and the dates of the training, competition, or residence for which payment is due.

(Authority: 38 U.S.C. 322(d))

§ 76. Amount of allowance.

The following rules govern the amount of allowance payable to veterans under this section.

(a) Payment will be made at the rate paid for a full-time institutional program under chapter 31 of title 38, United States Code (Chapter 31) that is in effect for a period of certified participation, as prescribed by paragraph (b) of this section. (*See* 38 CFR 21.260.)

(b) Payment may be made for each day at 1/30 of the monthly rate to veterans who train or compete in USP or IPC sponsored events for each day of training or competition, or to veterans who reside at a USP training center, for each day of residence, or on a monthly basis at the monthly rate to veterans who train or compete continuously for a full month, or to veterans who reside at a USP training center for a full month.

(c) VA will pay the allowance at a rate paid to a veteran with dependents for a full-time Chapter 31 institutional program upon receipt of appropriate documentation that a veteran who qualifies for the allowance has dependents. (*See* 38 CFR 21.260.)

(Authority: 38 U.S.C. 322(d), 3108)

[FR Doc. 2010–21921 Filed 9–2–10; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2238–P2]

RIN 0938–AP67

Medicaid Program; Withdrawal of Determination of Average Manufacturer Price, Multiple Source Drug Definition, and Upper Limits for Multiple Source Drugs

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: In this rule, we are proposing to withdraw two provisions from the "Medicaid Program; Prescription Drugs" final rule (referred to hereafter as "AMP final rule") published in the July 17, 2007 **Federal Register.** The provisions we are proposing to withdraw are as follows: The determination of average manufacturer price (AMP), and the Federal upper limits (FULs) for multiple source drugs. We are also proposing to withdraw the definition of "multiple source drug" as it was revised in the "Medicaid Program; Multiple Source Drug Definition" final rule published in the October 7, 2008 **Federal Register.** The provisions of the AMP final rule and the definition of multiple source drug that we are proposing to withdraw were challenged in a lawsuit that was filed in November 2007. The challenged regulations have been superseded in significant part by the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, and the FAA Air Transportation Modernization and Safety Improvement Act. This document would withdraw the regulatory provisions challenged in the aforementioned litigation.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on October 4, 2010.

ADDRESSES: In commenting, please refer to file code CMS–2238–P2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2238–P2, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2238–P2, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of

the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—

Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Wendy Tuttle, (410) 786–8690.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

On July 17, 2007, we published a final rule, titled "Medicaid Program; Prescription Drugs" in the **Federal Register** (72 FR 39142) (referred to hereafter as "AMP final rule"), which implemented sections 6001(a) through (d), 6002, and 6003 of the Deficit Reduction Act of 2005 (Pub. L. 109–171, enacted on February 8, 2006) (DRA) as well as codified parts of section 1927 of the Social Security Act (the Act) that pertain to requirements for drug manufacturers' calculation and reporting of average manufacturer price (AMP) and best price, and revised existing regulations that set Federal upper limits (FULs) for certain covered outpatient drugs. The AMP final rule also implemented section 1903(i)(10) of the Act, as revised by the DRA with regard to the denial of FFP in expenditures for certain physician administered drugs. Finally, the AMP final rule addressed other provisions of the Medicaid Drug Rebate Program.

On November 7, 2007, a complaint was filed with the United States District Court for the District of Columbia by the National Association of Chain Drug Stores (NACDS) and the National Community Pharmacists Association (NCPA) (collectively, the Plaintiffs), which alleged that the AMP final rule unlawfully changes the methodology by which pharmacies are reimbursed for dispensing prescription drugs to Medicaid patients. The Complaint sought to enjoin the Department of Health and Human Services and CMS (the Defendants) from implementing the AMP final rule for purposes of reimbursing pharmacies and posting on a public Web site the data calculated pursuant to the AMP final rule. In addition, it sought declaratory relief that the AMP final rule fails to comply with the Act.

On December 19, 2007, the Court issued a preliminary injunction after finding that the "Plaintiffs are likely to succeed on the merits of their claims that Defendants violated the Administrative Procedure Act and acted contrary to law and/or arbitrarily and capriciously in creating" the AMP final rule because "the AMP Rule does not comply with either the statutory definition of 'average manufacturer price' or the statutory definition of 'multiple source drug' as stated by the Court." Accordingly, the preliminary injunction prohibits CMS from "[u]ndertaking any and all action to implement the AMP Rule to the extent such action affects Medicaid reimbursement rates for retail pharmacies under the Medicaid program," and, subject to certain exceptions, prohibits CMS from "[p]osting any AMP data on a public Web site or otherwise disclosing any AMP data to any individual or entities." The preliminary injunction, however, does not enjoin implementation of the AMP final rule as it relates to the calculation of rebates for the Medicaid rebate program, or the disclosure of AMP data to States as necessary for the administration of that program.

On March 14, 2008, in response to this litigation, CMS published an interim final rule with comment period to revise the definition of multiple source drug to better conform to the statutory definition of "multiple source drug" found in section 1927(k)(7) of the Act, and to inform the public of the procedures and practices the Agency would follow to ensure compliance with those statutory provisions. The subsequent final rule was published on October 7, 2008. The Plaintiffs, however, amended their filing with the Court contending that the revised multiple source drug definition and implementation procedures remained inconsistent with the statute.

On July 15, 2008, the Medicare Improvements for Patients and Providers Act of 2008 (Pub. L. 110–275) (MIPPA) was enacted. Section 203 of MIPPA prohibited HHS from imposing FULs prior to October 1, 2009, for multiple source drugs under § 447.514(b) as published in the July 17, 2007, AMP final rule. In accordance with the law, CMS resumed publishing FULs for multiple source drugs, using the methodology in § 447.332 as in effect on December 31, 2006. The methodology in § 447.332 applied through September 30, 2009. Since the preliminary injunction was issued, CMS has been unable to implement certain provisions of the DRA (as implemented in the July 17, 2007 AMP final rule). As a result of the lawsuit, and subsequent preliminary injunction, CMS has been enjoined from implementing the AMP-based FULs that the DRA had required. However, manufacturers were not affected by the injunction and continue to calculate and report AMP for the purpose of Medicaid rebates, in accordance with the Determination of AMP as specified in the AMP final rule.

Section 2503(a) of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010), amended section 1927(e) of the Act by revising the Federal upper reimbursement limit to be no less than 175 percent of the weighted average (determined on the basis of utilization) of the most recently reported monthly AMPs for pharmaceutically and therapeutically equivalent multiple source drug products that are available for purchase by retail community pharmacies on a nationwide basis. It also amends section 1927(k) of the Act by revising the definitions of AMP, multiple source drug, and wholesaler. In addition, it adds to section 1927(k) of the Act the definition of the term "retail community pharmacy," and eliminates the term "retail pharmacy class of trade." The amendments made by section 2503(a) of the Patient Protection and Affordable Care Act, as amended by section 1101(c) of the Health Care and Education Reconciliation Act (Pub. L. 111–152, enacted on March 30, 2010)

and section 202 of the FAA Air Transportation Modernization and Safety Improvement Act (Pub. L. 111–226, enacted on August 10, 2010), are effective October 1, 2010.

II. Provisions of the Proposed Regulations

In light of the lawsuit and preliminary injunction imposed by the Court and, in light of the changes in the relevant statutory language, CMS proposes the following revisions to the AMP final rule published on July 17, 2007:

- Section 447.504, "Determination of AMP," should be withdrawn in its entirety;
- Section 447.514, "Upper limits for multiple source drugs," should be withdrawn in its entirety; and
- The definition of "multiple source drug" in § 447.502, "Definitions" (as it was amended by the Multiple Source Drug Rule published on October 7, 2008), should be withdrawn.

The terms "average manufacturer price" and "multiple source drug" would be defined by section 1927 of the Act, including changes made by section 2503 of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, and the FAA Air Transportation Modernization and Safety Improvement Act. In particular, drug manufacturers would be advised to base their AMP calculations on the definitions set forth in section 1927 of the Act, instead of on the AMP and AMP-related definitions provided in existing regulations and guidance.

CMS expects to develop regulations that will implement the provisions of section 2503 of the Patient Protection and Affordable Care Act.

Additionally, there are three sections within the AMP final rule that make reference to the sections being proposed for withdrawal. Section 447.510 "Requirements for manufacturers", makes reference to § 447.504 "Determination of AMP", and § 447.512 "Drugs: Aggregate upper limits for payment", and § 447.518 "State plan requirements", make reference to § 447.514 "Upper limits for multiple source drugs. We are proposing conforming regulatory amendments to those sections.

III. Collection of Information Requirements

This document does not impose any new information collection and recordkeeping requirements. The burden associated with the reporting requirements contained in § 447.510(a) are currently approved under OMB #0938–0578 with an expiration date of October 31, 2010.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993) the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This regulatory action withdraws those regulatory provisions that have been superseded by the Affordable Care Act. We do not expect that this proposed rule will have any economic effects. Therefore, this proposed rule is not considered an economically significant rule.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.0 million to $34.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because the Secretary has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because the Secretary has determined that this proposed rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2010, that threshold is approximately $135 million. This rule would have no consequential effect on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 447—PAYMENT FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart I—Payment for Drugs

§ 447.502 [Amended]

2. Section 447.502 is amended by removing the definition of "multiple source drug."

§ 447.504 [Removed and reserved]

3. Section 447.504 is removed and reserved.

4. Section 447.510 is amended by—

A. Republishing paragraph (a) introductory text.

B. Revising paragraphs (a)(1), (c)(2)(i), and (d)(2).

The revisions read as follows:

§ 447.510 Requirements for manufacturers.

(a) *Quarterly reports.* A manufacturer must report product and pricing information for covered outpatient drugs to CMS not later than 30 days after the end of the rebate period. The quarterly pricing report must include:

(1) AMP, calculated in accordance with section 1927 (k)(1) of the Social Security Act.

* * * * *

(c) * * *

(2) * * *

(i) A manufacturer's recalculation of the base date AMP must only reflect the revisions to AMP as provided for in section 1927(k)(1) of the Social Security Act.

* * * * *

(d) * * *

(2) *Calculation of monthly AMP.* Monthly AMP should be calculated based on section 1927(k)(1) of the Social Security Act, except the period covered should be based on monthly, as opposed to quarterly AMP sales.

* * * * *

5. Section 447.512 is amended by—

A. Removing and reserving paragraph (a).

B. Revising the introductory text of paragraph (b).

C. Revising paragraph (c).

The revisions read as follows:

§ 447.512 Drugs: Aggregate upper limits of payment.

(a) [Reserved]

(b) *Other drugs.* The agency payments for brand name drugs certified in accordance with paragraph (c) of this section and drugs other than multiple source drugs for which a specific limit has been established must not exceed, in the aggregate, payments levels that the agency has determined by applying the lower of the—.

* * * * *

(c) *Certification of brand name drugs.*

(1) The upper limit for payment for multiple source drugs for which specific limit has been established does not apply if a physician certifies in his or her own handwriting (or by an electronic alternative means approved by the Secretary) that a specific brand is medically necessary for a particular recipient.

(2) The agency must decide what certification form and procedure are used.

(3) A check-off box on a form is not acceptable but a notation like "brand necessary" is allowable.

(4) The agency may allow providers to keep the certification forms if the forms will be available for inspection by the agency or HHS.

§ 447.514 [Removed and reserved]

5. Section 447.514 is removed and reserved.

6. Section 447.518 is amended by:

A. Revising paragraph (b)(1)(i).

B. In paragraph (b)(2), removing the citations "§§ 447.512 and § 447.514" and adding citation "§ 447.512" in its place.

The revision reads as follows:

§ 447.518 State plan requirements, findings and assurances.

* * * * *

(b) * * *

(1) * * *

(i) In the aggregate, its Medicaid expenditures for multiple source drugs are in accordance with the established upper limits.

* * * * *

Authority: Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program.

Dated: *August 18, 2010.*

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

Approved: *August 31, 2010.*

Kathleen Sebelius,

Secretary.

[FR Doc. 2010–22115 Filed 9–2–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 61

[Docket ID: FEMA–2010–0021]

RIN 1660–AA70

National Flood Insurance Program, Policy Wording Correction

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; request for comments.

SUMMARY: By this Notice of Proposed Rulemaking, the Federal Emergency Management Agency (FEMA) is proposing a technical correction to the FEMA, Federal Insurance and Mitigation Administration, Standard Flood Insurance Policy regulations. In this proposed rule, FEMA intends to increase the clarity of one of the provisions of the Standard Flood Insurance Policy by adding in two unintentionally omitted words.

DATES: Comments must be submitted on or before November 2, 2010.

ADDRESSES: You may submit comments, identified by Docket ID: FEMA–2010–0021, by one of the following methods:

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

E-mail: FEMA-RULES@dhs.gov. Include Docket ID: FEMA–2010–0021 in the subject line of the message.

Fax: (703) 483–2999.

Mail/Hand Delivery/Courier: Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

To avoid duplication, please use only one of these methods. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For instructions on submitting comments, See the Public Participation portion of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Edward L. Connor, Acting Federal Insurance and Mitigation Administrator, DHS/FEMA, 1800 South Bell Street, Arlington, VA 20598–3010. Phone: (202) 646–3429. Facsimile: (202) 646–7970. E-mail: *Edward.Connor@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this Notice of Proposed Rulemaking (NPRM). Comments that will provide the most assistance to the Federal Emergency Management Agency (FEMA) in developing this rule will refer to a specific provision of the NPRM, explain the reason for any comments, and include other information or authority that supports such comments. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. If you submit a comment,

please include the Docket ID for this rulemaking, FEMA–2010–0021, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

A. Privacy Act

Please be aware that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual who submitted the comment (or signed the comment, if submitted on behalf of an association, business, labor union, etc.) You may want to review the Federal Docket Management System system of records notice published in the **Federal Register** on March 24, 2005 (70 FR 15086).

B. Submission of Sensitive Information

Do not submit comments that include trade secrets, confidential commercial or financial information to the public regulatory docket. Please submit such comments separately from other comments on the rule. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the address specified in the **ADDRESSES** section of this NPRM. If FEMA receives a request to examine or copy this information, FEMA will treat it as any other request under the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department of Homeland Security's FOIA regulation found in 6 CFR part 5 and FEMA's regulations found in 44 CFR part 5.

C. Public Meeting

FEMA does not plan to hold a public meeting on this NPRM, but you may submit a request for one at the address specified in the **ADDRESSES** section of this NPRM explaining why one would be beneficial. If FEMA determines that a public meeting would aid this rulemaking, FEMA will hold one at a time and place announced by a notice in the **Federal Register.**

II. Background

Under the authority of sections 1304 and 1345 of the National Flood Insurance Act of 1968, Public Law 90–448, 82 Stat. 574, as amended (42 U.S.C. 4011, 4081), FEMA provides insurance protection against flood damage to homeowners, businesses, and others by means of the National Flood Insurance Program (NFIP). The sale of flood insurance is largely implemented by private insurance companies that participate in the NFIP Write-Your-Own (WYO) Program. Through the WYO Program, insurance companies enter into agreements with FEMA to sell and service flood insurance policies and adjust claims after flood losses.

The policy sold is the FEMA Standard Flood Insurance Policy (SFIP), which is published in 44 CFR part 61, Appendix A. The SFIP has six parts, the Dwelling Form (App A(1)), General Property Form (App A(2)), Residential Condominium Building Association Policy (App A(3)), Endorsement to Dwelling Form (App A(4)), Endorsement to General Property Form (App A(5)), and the Endorsement to Residential Condominium Building Association Policy (App A(6)). The language in the Dwelling Form and the General Property Form are similar with respect to their discussion of the property covered. For example, the paragraph at 44 CFR part 61 Appendix A(1) III.B.3 contains the same substance as the paragraph at 44 CFR part 61 Appendix A(2) III.B.4.

However, 44 CFR part 61 Appendix A(2) III.B.4 reads:

> Items of property in a building enclosure below the lowest elevated floor of an elevated post-FIRM building located in zones A1–A30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–V30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source: * * *

While 44 CFR part 61 Appendix A(1) III.B.3 reads:

> Coverage for items of property in a building enclosure below the lowest elevated floor of an elevated post-FIRM building located in zones A1–A30, AE, AH, AR, AR/A, AR/AE, AR/AH, AR/A1–A30, V1–V30, or VE, or in a basement, regardless of the zone, is limited to the following items, if installed in their functioning locations and, if necessary for operation, connected to a power source: * * *

III. Discussion of Rule

On May 31, 2000, FEMA published an NPRM at 65 FR 34823 that proposed to revise the SFIP so that it would conform to "plain language" standards. The rule also proposed changes that would bring the three forms of the SFIP more in line with the format of the insurance industry's homeowners policy. FEMA also proposed changes in the coverage.

On October 12, 2000, FEMA published a final rule at 65 FR 60757. The final rule changed the SFIP so that it was in "plain language" and restructured the format to resemble the homeowners policy. FEMA also made changes in the policy's coverage and addressed the comments received after the publication of the NPRM.

The SFIP General Property Form is missing "Coverage for" at the beginning of 44 CFR part 61 Appendix A(2) III.B.4. This omission started in the NPRM. However, the omission did not affect 44 CFR until the final rule's effective date of December 31, 2000. The words "Coverage for" do not substantively change the effect of the paragraph in question, as FEMA has always interpreted the substance of the paragraph as discussing those items which are or are not covered by the policy. However, to clarify and ensure consistency with the other paragraphs in Appendix A, FEMA is proposing to correct the paragraph by adding the words "Coverage for" at the beginning of 44 CFR part 61 Appendix A(2) III.B.4. With this proposed change, it would be clear on its face that the paragraph discusses the limitations of coverage for these certain types of items.

IV. Regulatory Analyses

A. Executive Order 12866, 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" (58 FR 51735, Oct. 4, 1993), accordingly FEMA has not submitted it to the Office of Management and Budget (OMB) for review. This rule is solely adding two unintentionally omitted words to the SFIP and will not affect the way that FEMA interprets or applies the policy. FEMA expects that this change would have no economic impact.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires that special consideration be given to the effects of proposed regulations on small entities. This rule will not have an economic impact on the regulated public. Therefore, FEMA certifies that this will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA) Public Law 104–13 (44 U.S.C. 3501 *et seq.*), as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Although this proposed regulatory change will not result in a new collection of information affected by the PRA, the collection of information for the National Flood Insurance Program Policy Forms is approved under OMB

Number, 1660–0006. The expiration date for 1660–0006 is August 31, 2012.

D. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), 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. FEMA has analyzed this proposed rule under Executive Order and determined that it does not have implications for federalism.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. As this proposed rule will not have a substantive effect on the public, this rule is not an unfunded Federal mandate.

F. Executive Order 12630, Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, Mar. 18, 1988).

G. Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, Feb. 16, 1994), FEMA incorporates environmental justice into its policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level.

No action that FEMA can anticipate under this proposed rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population. Accordingly, the requirements of Executive Order 12898 do not apply to this proposed rule.

H. Executive Order 12988, Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, Feb. 7, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule will not create environmental health risks or safety risks for children under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997).

K. National Environmental Policy Act

Rulemaking is a major Federal action subject to the National Environmental Policy Act of 1969, Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*), as amended. The *List of exclusion categories* at 44 CFR 10.8(d)(2)(ii) excludes the preparation, revision, and adoption of regulations from the preparation of an environmental assessment or environmental impact statement, where the rule relates to actions that qualify for categorical exclusions. Technical corrections to a rulemaking are categorically excluded under 44 CFR 10.8(d)(2)(i) and no extraordinary circumstances exist requiring the need to develop an environmental assessment or environmental impact statement. Thus, the preparation, revision, and adoption of regulations related to this action is categorically excluded.

List of Subjects in 44 CFR Part 61

Flood insurance, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FEMA proposes to amend 44 CFR chapter I as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

Appendix A(2) to Part 61—[AMENDED]

2. Amend Appendix A(2) to part 61, by removing "Items" and adding "Coverage for items" in its place in paragraph III.B.4.

Dated: August 27, 2010.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22045 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 100311144–0159–01]

RIN 0648–AY75

International Fisheries; Pacific Tuna Fisheries; Vessel Capacity Limit in the Purse Seine Fishery in the Eastern Pacific Ocean

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing regulations under the Tuna Conventions Act of 1950 (Act), as amended, to increase the vessel capacity limit for the U.S. purse seine fishery operating in the eastern Pacific Ocean (EPO) and make U.S. regulations more consistent with the Inter-American Tropical Tuna Commission (IATTC) Resolution on the Capacity of the Tuna Fleet Operating in the Eastern Pacific Ocean. These revisions would ensure that the United States is satisfying its obligations under the Tuna Conventions Act while dismantling regulatory constraints preventing economic development of the U.S. industry.

DATES: Comments must be submitted in writing by October 4, 2010. A public hearing will be held at 9 a.m. to 12 p.m. PDT, September 9, 2010, Long Beach, CA.

ADDRESSES: You may submit comments, identified by 0648–AY75, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*
- Fax: 562–980–4047, Attn: Heidi Hermsmeyer
- Mail: Rod McInnis, Regional Administrator, NMFS Southwest Regional Office (SWR), 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier "0648–AY75" in the comments.
- Public hearing: The public is welcome to attend a public hearing and offer comments on this rule on September 9, 2010, from 9 a.m. to 12 p.m. at 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The public may also participate in the public hearing via conference line: 800–621–8495; participant passcode: 26548.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS SWR and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285. Copies of the Environmental Assessment prepared under the authority of the National Environmental Policy Act and the IRFA are available at *http://swr.nmfs.noaa.gov/* or may be obtained from Rod McInnis, Regional Administrator, NMFS SWR.

FOR FURTHER INFORMATION CONTACT: Heidi Hermsmeyer, NMFS SWR, 562–980–4036.

SUPPLEMENTARY INFORMATION:

Background on the 1949 Convention for the Establishment of an IATTC (Convention)

The Convention entered into force in May 1949. The full text of the Convention is available at: *http://www.iattc.org/PDFFiles/IATTC__convention__1949.pdf*. The Convention Area includes the waters bounded by the coast of the Americas, the 40 N. and 40 S. parallels, and the 150 W. meridian. The Convention focuses on the conservation and management of highly migratory species (HMS) and the management of fisheries for HMS, and has provisions related to non-target, associated, and dependent species in such fisheries. In 2003, the IATTC adopted a resolution that approved the Antigua Convention, a major revision of the original convention, establishing the IATTC. This new text brings the convention current with respect to internationally accepted laws on the conservation and management of oceanic resources, including a mandate to take a more ecosystem-based approach to management. The Antigua Convention will enter into force on August 27, 2010, and may be found at: *http://www.iattc.org/PDFFiles2/Antigua__Convention__Jun__2003.pdf*.

The IATTC, established under the Convention, is comprised of the Members, including High Contracting Parties to the Convention and fishing entities that have agreed to be bound by the regime established by the Convention. Other entities that participate in the IATTC include Cooperating Non-Parties, Cooperating Fishing Entities, and Regional Economic Integration Organizations. Cooperating Fishing Entities participate with the authorization of the High Contracting Parties with responsibility for the conduct of their foreign affairs. Cooperating Non-Parties are identified by the IATTC on a yearly basis. In accepting Cooperating Non-Party status, such States agree to implement the decisions of the IATTC in the same manner as Members.

The current Members of the IATTC are Colombia, Costa Rica, Ecuador, El Salvador, France, Guatemala, Japan, Mexico, Nicaragua, Panama, Peru, Republic of Korea, Spain, United States, Vanuatu, and Venezuela. The current Cooperating Non-Parties, Cooperating Fishing Entities and Regional Economic Integration Organizations are Belize, Canada, China, Cook Islands, Kiribati, Chinese Taipei, and the European Union.

International Obligations of the United States under the Convention

As a Contracting Party to the Convention and a Member of the IATTC, the United States is legally bound to implement the decisions of the IATTC. The Act (16 U.S.C. 951 *et seq.*) authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard (USCG) is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the IATTC. The authority to promulgate regulations has been delegated to NMFS.

IATTC Decisions Regarding Capacity in the Purse Seine Fishery

At its sixty-ninth annual meeting in June 2002, the IATTC adopted the Resolution on the Capacity of the Tuna Fleet Operating in the Eastern Pacific Ocean (Resolution C–02–03) to address the problem of excess capacity in the tuna purse-seine fleet operating in the EPO by limiting the capacity to a level which would ensure that tuna fisheries in the region are sustainable. The resolution, available with other decisions of the IATTC at *http://www.iattc.org/ResolutionsActiveENG.htm*, places certain obligations on the IATTC's High Contracting Parties, Cooperating Non-Parties, Cooperating Fishing Entity, and Regional Economic Integration Organization (collectively, CPCs). Resolution C–02–03 replaced the previous Resolution on Fleet Capacity adopted at the sixty-second annual meeting of the IATTC in October 1998 (Resolution C–98–11). Resolution C–02–03 established a total vessel capacity limit of 158,000 cubic meters for all vessels authorized by the IATTC to fish for tuna species in the EPO. Each CPC was allocated a vessel capacity limit by the Secretariat based on historical fishing levels in the EPO. The resolution included provisions that, among other things, prohibited the entry of new vessels to the EPO purse seine fleet, except to replace vessels removed from the Vessel Register, and prohibited the increase of the capacity of any existing purse seine vessel unless a purse seine vessel or vessels of equal or greater capacity is removed from the Vessel Register.

When Resolution C–02–03 was adopted, the United States was authorized to have a total of 39,228 cubic meters of capacity in the purse seine fishery, as well as a provision that allowed up to 32 U.S. purse seine vessels that regularly operate in the western and central Pacific Ocean (WCPO) to make one trip per year in the EPO without being included on the IATTC Vessel Register. However, for diplomatic reasons the United States

chose to further limit its fleet capacity by maintaining the U.S. fleet capacity limit established under paragraph 1 of Resolution C–98–11, which had been replaced by Resolution C–02–03. Thus, on April 12, 2005, a final rule was published in the **Federal Register** (70 FR 19004), which, among other things, established a fleet capacity limit of 8,969 mt. In August 2002, the U.S. Department of State notified the IATTC of the smaller limit that NMFS chose to impose on the U.S. fleet. This was a non-binding commitment and not necessarily intended to apply indefinitely. Since that time, a number of circumstances have changed. The diplomatic reasons for adopting the smaller regulatory limit, and specifically the conditions under which the United States was adopting its restrictions, are no longer applicable due to the manner in which Resolution C–02–03 has been implemented by the IATTC Members since its adoption. In addition, the United States has been unable to make meaningful use of the 32–trip provision because of the restriction limiting each eligible vessel to only a single trip in the EPO per year even if the total number of trips made by eligible vessels is less than 32. Some vessel owners have expressed interest in making multiple trips to the EPO since fewer than 32 vessels have ever used this provision in a given year; however, this is not allowed. Due to removals and additions of vessels from the Vessel Register, currently the United States is authorized by the IATTC to have up to 31,775 cubic meters of carrying capacity in the purse seine fleet.

Proposed Action

The proposed rule would revise the vessel capacity limit for the U.S. purse seine fishery operating in the EPO so that it is consistent with the amount authorized by the IATTC, which currently is 31,775 cubic meters, or about 27,146 metric tons. In addition, the regulations pertaining to the purse seine fishery operating in the EPO would be revised so that capacity measurements would be in cubic meter measurements, rather than in metric tons. This would be consistent with the measurements used by the IATTC and a less subjective measurement because it is based on actual well volume rather than the estimated weight of fish that would fit in the well. The exemption for small purse seine vessels to be on the Vessel Register at 50 CFR 300.22 (b)(1)(ii) would also be removed, so that all U.S. purse seine vessels would need to be listed on the Vessel Register and categorized as active under paragraph (b)(4)(i) of the same section in order to use purse seine gear to fish for tuna in the IATTC Convention Area. However, these vessels (class size 5 and under purse seine vessels that primarily fish for coastal pelagic species off the U.S. west coast) would be exempt from the frivolous request provisions for active status at 50 CFR 300.22(b)(4)(ii). The frivolous request provisions essentially penalize vessels that apply to be on the vessel register and do not fish for tuna in the EPO by putting them at the bottom of the hierarchy when applying to be on the vessel register the following year. These provisions are meant to prevent vessel owners who do not have any intent to fish in the Convention Area from applying to be on the vessel register and occupying assigned capacity. The smaller vessels would be exempt from these provisions because it would be difficult, if not impossible, for the vessel owners to anticipate whether unassociated schools of tuna would come within their range off the U.S. west coast during the summer months in a given year. These revisions would ensure that the United States is satisfying its obligations under the Tuna Conventions Act and not exceeding its allotted capacity in purse seine fishery, while dismantling regulatory constraints preventing capacity building by the U.S. industry.

Since 1971, the number of large U.S. purse seine vessels fishing for tuna in the EPO has been reduced from over 155 to an average of two over the past seven years. Most of the U.S. vessels that historically fished in the EPO have either re-flagged or are now active in the WCPO, where a treaty between the United States and certain Pacific Island States (i.e., the South Pacific Tuna Treaty) provides the fleet with access to fishing grounds. The number of vessels in the U.S. WCPO purse seine fishery gradually decreased from the late 1990s until 2006, and has fluctuated since. Since 2003, there has been an annual average of two large purse seine vessels and four small purse seine vessels that have landed tuna on the U.S. west coast. The small purse seine vessels primarily target coastal pelagic species (CPS) and target tunas opportunistically when they become available in the U.S. west coast Exclusive Economic Zone during the summer months.

Since the end of 2008, the U.S. WCPO purse seine fleet has included 37 vessels. These 37 vessels amount to roughly 55,000 cubic meters of carrying capacity. In general, WCPO tuna fishermen catch more and larger tuna per set compared to EPO tuna fishermen and thus make fewer and shorter trips. Unless there is a change in the economics of the fisheries, such that fishing in the EPO would be more advantageous for the U.S. fleet, it is unlikely that U.S. vessels will significantly expand their activity in the EPO. In addition, NMFS does not expect any other large vessels to be configured for purse seine fishing and enter into the fishery because of the high start-up costs associated with purchasing a large vessel and retrofitting it and purchasing the necessary gear to enter the fishery.

NMFS also does not expect a significant influx of smaller vessels into the EPO tuna purse seine fishery. The purse seine fisheries targeting CPS are limited entry fisheries. Any additional small purse seine vessels that could potentially enter the EPO tuna fishery would either be a new purse seine vessel that would primarily target tuna, or one of the limited entry CPS vessels. It is unlikely that there would be a significant influx of new vessels in the fishery due to the high start-up costs associated with entering the fishery, and it is unlikely that there would be a significant increase in the number of small CPS purse seine vessels that opportunistically target tunas in the summer months as shown by recent fishing practices.

As of July 2010, there were only two large U.S. purse seine vessels listed on the Vessel Register and authorized to fish in the IATTC Convention Area in the 2010 fishing year. The total U.S. vessel carrying capacity at this time is 1,194 mt, which does not include small vessels, currently exempt from the requirement to be listed on the Vessel Register under domestic regulations. In 2009, there were eight small purse seine vessels that were exempt from being listed on the IATTC Vessel Register and made landings of tuna in the EPO; these vessels amount to an estimated 1,000 mt of capacity. Thus, it is estimated that the current U.S. vessel capacity, including small vessels, is about 2,200 mt. If the proposed rule were adopted, it is possible, although highly unlikely, that the effort in the purse seine fishery operating in the EPO could increase threefold as the carrying capacity limit being proposed is about three times larger than the one currently in place. This would allow for about half of the large purse seine vessels that are currently registered to fish in the WCPO to be on the IATTC Vessel Register and be eligible to fish in the EPO. However, the current capacity limit of 8,969 mt has never been fully utilized since it was established in 2005, and when excess U.S. capacity has been available in the past, there has not been a surge to use this capacity. Thus, it is apparent that there has not been a high demand

for additional vessels to enter the fishery.

In 2008, the Western and Central Pacific Fisheries Commission (WCPFC) adopted a conservation and management measure (CMM–2008–01) that established a three-month closure in the WCPO to fishing on fish aggregating devices with purse seine gear. This closure could have resulted in an increase in the number of WCPO vessels interested in operating in the IATTC Convention Area. This did not occur during the 2008 or 2009 closures; however, NMFS staff has been advised that some vessel managers are considering shifting effort to the IATTC Convention Area in the future. The IATTC resolution on vessel capacity and U.S. regulations do allow for WCPO vessels to make a single trip in the EPO during a calendar year without having to be listed on the IATTC Vessel Register, so if the vessels wanted to make only one trip they would not need to be on the Vessel Register or be counted against the U.S. carrying capacity. However, if a WCPO vessel wanted to make more than one trip, it would have to request to be on the Vessel Register and would only be allowed to do so if there was adequate capacity available.

In addition to the capacity limits, there are other IATTC measures in place to limit effort in the purse seine fishery. Of particular relevance is IATTC Resolution C–09–01, which went into effect in July 2009 and established, among other things, time/area closures and tuna catch retention requirements in the purse seine fishery. These measures were put in place primarily to limit the fishing mortality of bigeye and yellowfin tuna. The United States implemented these measures domestically in November 2009 (74 FR 61046, November 23, 2009).

NMFS initially considered including a provision that would rank purse seine fishermen applying to be on the Vessel Register according to their historical participation in the purse seine fishery, so those who have participated longer in the fishery would have precedence when applying to be on the Vessel Register. NMFS has preliminarily determined that this provision is not necessary at this time because there has been such limited participation in the fishery in the recent past. NMFS also initially considered including additional restraints on the small purse seine vessels that would be exempt from the frivolous request provisions in order to avoid numerous small purse seiners that do not have intentions to fish for tuna later in the year from applying to be on the Vessel Register. However, NMFS determined that this is also not necessary at this time due to the limited participation in the fishery. NMFS encourages public comment on both of these issues.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act and other applicable law, subject to further consideration after public comment.

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. The complete analysis is included in this proposed rule.

The purpose of the proposed action is to amend regulations to ensure that the United States is satisfying its obligations as a member of the IATTC and U.S. regulations are as consistent as practicable with active IATTC Resolutions, while dismantling regulatory constraints that may prevent capacity building by the U.S. industry.

The total number of affected purse seine vessels is approximated by the current number of U.S. purse seine vessels authorized to fish in the IATTC Convention Area and the number of vessels that have the potential to enter the fishery if the proposed rule were adopted and capacity was increased in the purse seine fishery. As of July 2010, there were two U.S purse seine vessels listed on the IATTC Vessel Register and authorized to fish in the Convention Area totaling 1,194 mt carrying capacity; this does not include small vessels which are exempt from the requirement to be listed on the Vessel Register. One of the large vessels is class size 6 (greater than 363 mt carrying capacity) and one is class size 5 (273–363 metric tons carrying capacity). In 2009, there were eight small purse seine vessels that were exempt from being listed on the IATTC Vessel Register and made landings of tuna in the EPO; these vessels amount to an estimated 1,000 mt of carrying capacity are class size 1–2 vessels. Thus, it is estimated that the current U.S. vessel capacity, including small vessels, is about 2,200 mt. If the proposed rule were adopted, it is possible, although unlikely, that effort in the purse seine fishery operating in the EPO could increase substantially.

If the capacity were increased to 31,775 cubic meters (or about 27,147 mt), the carrying capacity limit would be about three times larger than the carrying capacity limit currently in place. This would allow for about 20 or fewer large vessels, depending on the size of the individual vessels and the number of small vessels participating in the fishery, to be on the Vessel Register and participate in the fishery (this estimate is based on the average carrying capacity of U.S. vessels operating in the WCPO, or 1,487 cubic meters). It is estimated that at most, 10–15 small vessels would opt to be on the Vessel Register. It is estimated that the majority of the vessels entering the fishery from the WCPO would be class size 6 vessels based on current and historical participation in the EPO and WCPO purse seine fisheries.

Class size 6 purse seine vessels usually fish outside U.S. waters and deliver their catch to U.S. (e.g., American Samoa) or foreign (e.g., Ecuador, Mexico, Colombia, Costa Rica) ports. Class size 6 vessels are required to have 100 percent observer coverage. They are categorized as large business entities (revenues in excess of $4 million per year) and typically generate about 4,000 to 5,000 mt of tuna valued at about $4 to $5 million per year. Class size 5 vessels are not required to carry an observer. Purse seine vessels class size 5 or smaller would be considered small business entities (revenues equal to or less than $4 million per year) and it is estimated that from 2004–2008, the majority, if not all, of these smaller vessels had revenues of less than $0.5 million per year.

The proposed action, if adopted, would not disproportionately affect small business entities relative to large business entities. The proposed action has the potential to affect more large business entities than small business entities. The proposed rule would increase the opportunity for all purse seine vessels, regardless of size, to register to be on the IATTC Vessel Register and participate in the fishery targeting tunas in the EPO because the total carrying capacity limit would be increased. The proposed rule would also remove the current exemption that allows smaller vessels (class sizes 1–5) to opportunistically fish for tuna species in the EPO without being listed on the IATTC Vessel Register. These vessels would have to apply to be on the Vessel Register every year if they anticipate fishing for tunas; however, there would be no associated cost for registering to

be on the IATTC Vessel Register because there are no IATTC observer requirements for vessels under class size 6. This regulatory amendment is necessary because the IATTC Resolution on a Vessel Register (Resolution C–00–06) requires that all vessels provide the IATTC with applicable vessel information and be listed on the IATTC Vessel Register in order to be authorized to fish in the IATTC Convention Area for species under the purview of the IATTC. Although these smaller vessels would be required to be listed on the IATTC Vessel Register, they would be exempt from the frivolous request provisions. The frivolous request provisions essentially penalize vessels that apply to be on the Vessel Register and do not fish for tuna in the EPO by putting them at the bottom of the hierarchy when applying to be on the Vessel Register the following year. These provisions are meant to prevent vessel owners who do not have any intent to fish in the Convention Area from applying to be on the Vessel Register and take up valuable capacity. The smaller vessels would be exempt because it would be difficult, if not impossible, for the vessel owners to anticipate whether schools of tuna would become available off the U.S. west coast during the summer months in a given year. In addition, the proposal to use cubic meters rather than metric tons is not likely to negatively affect small business entities as it is an administrative change.

NMFS compared the effects of the proposed rule to three alternatives, including a no action alternative. Alternative 1 would be the same as the preferred alternative (the proposed action); however, the Vessel Register list exemption for small purse seine vessels at 50 CFR 300.22(b)(1)(ii) would not be removed, and the frivolous request regulations would not be amended. Thus, Alternative 1 would increase the U.S. vessel carrying capacity limit for the purse seine fishery operating in the EPO to 31,775 cubic meters, the capacity measurements would be changed to cubic meter measurements, and small purse seine vessels for which landings of tuna caught in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year, would continue to be exempt from the requirement to be on the Vessel Register. The effects of this alternative on small business entities would be similar to those described for the proposed action, except small purse seine vessels would continue to be exempt from the requirement to be on the Vessel Register. If Alternative 1 were adopted, the United States would maintain U.S. regulations that would be less consistent with IATTC Resolution C–00–06 because not all vessels operating in the Convention Area would be on the IATTC Vessel Register.

Alternative 2 would revise the current regulations to give NMFS the discretion to revise the current 8,969 mt (10,498 cubic meters) vessel capacity limit in the future up to the amount authorized under resolutions adopted by the IATTC (currently 31,775 cubic meters) based on specific criteria. However, the vessel capacity limit would not be increased at this time because currently there appears to be limited demand for additional vessel capacity. The capacity measurements would be amended so that they are in cubic meter measurements, and small purse seine vessels for which landings of tuna caught in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year, would continue to be exempt from the requirement to be on the Vessel Register. The impacts to small business entities would be similar to those described under Alternative 1 with respect to not removing the exemption for small vessels. Alternative 2 does not necessarily increase the current carrying capacity in the purse seine fishery, so this could be disadvantageous to large and some small business entities that are not exempt from being listed on the Vessel Register if the current vessel capacity were reached in a given year and they were not able to participate in the fishery due to a lack of available capacity.

Alternative 3 is the no action alternative. Under this alternative, there would be no changes to the current regulations for the purse seine fishery which targets tuna species in the EPO. The purse seine vessel capacity limit would remain at 8,969 mt, the capacity measurements would remain in metric tons, and small purse seine vessels for which landings of tuna caught in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year, would continue to be exempt from the requirement to be on the Vessel Register. Under this alternative, the United States would maintain U.S. regulations that are less consistent with IATTC Resolution C–00–06 because small vessels that occasionally fish for tunas would not be included on the Vessel Register. In addition, U.S. regulations would constrain the carrying capacity limit beyond what is authorized by the IATTC and would therefore be limiting the opportunity for U.S. businesses to participate in the fishery.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by NOAA's Office of Management and Budget (OMB) under control number 0648–0387. Public reporting burden for Vessel Register annual notification is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

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

NMFS prepared a draft Environmental Assessment (EA) on these proposed regulations. A copy of the draft EA is available from NMFS (see **ADDRESSES**) or at: *http://swr.nmfs.noaa.gov*.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: August 30, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300, subpart C as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951–961 *et seq.*

2. Revise the heading for 50 CFR part 300, subpart C, to read as follows:

Subpart C—Eastern Pacific Tuna Fisheries

3. In § 300.21, remove the definition of "Commission's Yellowfin Regulatory Area (CYRA)".

4. In § 300.22, revise paragraphs (b)(1), (b)(3), (b)(4)(i)(A), and (b)(4)(ii) to read as follows:

§ 300.22 Eastern Pacific fisheries recordkeeping and written reports.

* * * * *

(b) * * *

(1) *Exception.* Vessels that are licensed under the South Pacific Tuna Treaty that exercise an option to fish in the Convention Area for a single trip each year are exempted from being listed on the Vessel Register to use purse seine gear to target tuna in the Convention Area, provided that the total number of optional trips does not exceed 32 in a given calendar year. Each optional trip in the Convention Area shall not exceed 90 days in duration.

* * * * *

(3) *Vessel information.* Information on each commercial fishing vessel or CPFV authorized to use purse seine, longline, drift gillnet, harpoon, troll, rod and reel, or pole and line fishing gear to fish for tuna and tuna-like species in the Convention Area for sale shall be collected by the Regional Administrator to conform to IATTC resolutions governing the Vessel Register. This information initially includes, but is not limited to, the vessel name and registration number; the name and business address of the owner(s) and managing owner(s); a photograph of the vessel with the registration number legible; previous vessel name(s) and previous flag (if known and if any); port of registry; International Radio Call Sign; vessel length, beam, and moulded depth; gross tonnage, fish hold capacity in cubic meters, and carrying capacity in cubic meters; engine horsepower; date and place where built; and type of fishing method or methods used. The required information shall be collected as part of existing information collections as described in this and other parts of the CFR.

(4) * * *

(i) * * *

(A) The cumulative carrying capacity of all purse seine vessels categorized as active on the Vessel Register may not exceed 31,775 cubic meters in a given year;

* * * * *

(ii) *Frivolous requests for active status.*

(A) Except as described under paragraph (b)(4)(ii)(B) of this section, requests for active status under paragraph (b)(4)(i) of this section will be considered frivolous if, for a vessel categorized as active in a given calendar year:

(*1*) Less than 20 percent of the vessel's total landings, by weight, in that same year is comprised of tuna harvested by purse seine in the Convention Area; or

(*2*) The vessel did not fish for tuna at all in the Convention Area in that same year.

(B) *Exceptions.* Requests described under paragraph (b)(4)(ii)(A) of this section will not be considered frivolous requests if:

(*1*) The vessel's catch pattern fell within the criteria described in pargraph (b)(4)(ii)(A) as a result of force majeure or other extraordinary circumstances as determined by the Regional Administrator; or

(*2*) The vessel's carrying capacity is 400 st (362.8 mt) or less and landings of tuna caught by the vessel in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year.

* * * * *

[FR Doc. 2010–22078 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 75, No. 171

Friday, September 3, 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

Rural Utilities Service

Southern Maryland Electric Cooperative: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an environmental assessment for public review.

SUMMARY: The Rural Utilities Service (RUS) has issued an Environmental Assessment (EA) to meet its responsibilities under the National Environmental Policy Act (NEPA) and RUS's Environmental and Policies and Procedures (7 CFR Part 1794) in relation to possible financial assistance for a proposed project by Southern Maryland Electric Cooperative (SMECO), with headquarters in Hughesville, Maryland. The proposal consists of the construction of a 30-mile 230 kilovolt (kV) transmission line (which includes a river crossing), a new 230/69 kV switching station, and a 230/69 kV switching station expansion in Calvert and St. Mary's Counties, Maryland. SMECO is requesting that RUS provide financial assistance for the proposal. RUS is considering funding this proposal, thereby making it an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 USC 470(f), and its implementing regulation, "Protection of Historic Properties" (36 CFR Part 800).

DATES: Written comments on this Notice must be received on or before October 4, 2010.

ADDRESSES: To obtain copies of the EA or for further information, contact: Ms. Lauren McGee, Environmental Scientist, USDA/RUS, 1400 Independence Ave., SW., Room 2244–S, Stop 1571, Washington, DC 20250–1571, telephone: (202) 720–1482, fax: (202) 690–0649, or e-mail: *lauren.mcgee@wdc.usda.gov.* A copy of the EA may be viewed online at: *http://www.usda.gov/rus/water/ees/ea.htm;* at the RUS address provided in this Notice; at SMECO's Calvert Regional Office, located at: 901 Dares Beach Road, Prince Frederick, MD; and at SMECO's St. Mary's Regional Office, located at: 23365 Hollywood Road, Leonardtown, MD.

SUPPLEMENTARY INFORMATION: SMECO proposes to construct a 230 kV transmission line between the existing Holland Cliff Switching Station in Calvert County to the existing Hewitt Road Switching Station in St. Mary's County, Maryland. The proposal has five segments and includes: (1) The installation of approximately 18 miles of new 230 kV single pole, double-circuit transmission line from the Holland Cliff switching station to a new switching station located in Southern Calvert; (2) the installation of the new Sollers Wharf 230/69 kV switching station; (3) the installation of approximately 10 miles of new 230 kV single pole, double-circuit transmission line from the new Southern Calvert switching station to the existing Hewitt Road switching station; (4) the installation of approximately 2 miles of 230 kV underground transmission cable circuit across the lower Patuxent River; and (5) the expansion of the existing 230 kV ring bus at Hewitt Road switching station to accommodate the new 230 kV transmission line from Southern Calvert. Throughout the right-of-way, the existing 69 kV poles would be removed, and new 230 kV poles would be installed. The existing 69 kV and new 230 kV lines would be installed on the new poles. This configuration would allow the use of the existing 69 kV transmission line right-of-way and preclude the need for additional easement acquisition. The preferred site of the new Sollers Wharf switching station is located near the intersection of Sollers Wharf Road and Pardoe Road, west of Maryland Highway 2/4 and near the Calvert Cliffs tap. Approximately six to ten acres of the 40-acre site would be disturbed during construction. The remainder of the site would serve as a buffer. Construction of the proposal is anticipated for completion in 2015.

A Notice of Intent to prepare an EA and hold a scoping meeting was published in the **Federal Register** on August 27, 2008; in the *Enterprise* (St. Mary's County) on August 29, 2008; and in the *Calvert Recorder* on August 29, 2008. A public meeting was held on September 11, 2008, in SMECO's Calvert Regional Office located at: 901 Dares Beach Road, Prince Frederick, Maryland. A summary of public comments can be found at the RUS Web site listed in this Notice.

As part of its environmental review process, RUS must take into account the effect of the proposal on historic properties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulation, "Protection of Historic Properties" (36 CFR Part 800). Pursuant to 36 CFR 800.2(d)(3), RUS is using its procedures for public involvement under NEPA to meet its responsibilities to solicit and consider the views of the public during Section 106 review. Accordingly, comments from the public submitted in response to scoping will inform RUS decision making in its Section 106 review of the proposal. RUS has made the determination that the proposal would have no adverse effects to historic properties listed in or eligible for listing on the National Register of Historic Places (NRHP).

Because the proposal may involve action in floodplains or wetlands, this Notice also serves as a notice of proposed floodplain or wetland action. The EA includes a floodplain/wetland assessment and floodplain/wetland statement of findings.

Alternatives considered by RUS and SMECO include (a) no action, (b) alternate engineering solutions (including new generation and five transmission system alternatives), and (c) alternate sites. An environmental report that describes the proposal in detail and discusses its anticipated environmental impacts has been prepared by Black and Veatch. RUS has reviewed and accepted the document as its EA of the proposal. The EA is available for public review at the addresses provided in this Notice. Questions and comments should be sent to RUS at the mailing or e-mail addresses provided in this Notice. RUS should receive comments on the EA in writing by October 4, 2010 to ensure that they are considered in its environmental impact determination.

Should RUS, based on its EA of the proposal, determine that the impacts of the construction and operation of the proposal would not have a significant

environmental impact, it will prepare a Finding of No Significant Impact (FONSI). Public notification of a FONSI would be published in the **Federal Register** and in newspapers with circulation in the proposal area.

Any final action by RUS related to the proposal will be subject to, and contingent upon, compliance with all relevant Federal, State and local environmental laws and regulations, and completion of the environmental review requirements as prescribed in RUS's Environmental Policies and Procedures (7 CFR Part 1794).

Mark S. Plank,

Director, Engineering and Environmental Staff USDA, Rural Utilities Service.

[FR Doc. 2010–22063 Filed 9–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Divide Ranger District, Rio Grande National Forest; Colorado; Big Moose Vegetation Management Project

AGENCY: Forest Service, Rio Grande National Forest, USDA.

ACTION: Corrected Notice of Intent to prepare an environmental impact statement.

DATES: The draft environmental impact statement is expected in the fall of 2010 and the final environmental impact statement is expected in the spring of 2011.

FOR FURTHER INFORMATION CONTACT: Kirby Self at (719) 657–3321. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

All prior notices: The original Notice of Intent was published in the **Federal Register**, Volume 74, Number 39, page 9076.

Authority: 40 CFR 1501.7 and 1508.22, 36 CFR 220.5(b) and Forest Service Handbook 1909.15, Section 21.

Dated: August 25, 2010.

Thomas Malecek,

District Ranger/Field Office Manager.

[FR Doc. 2010–22037 Filed 9–2–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Dairy Industry Advisory Committee; Public Meeting

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of public meetings.

SUMMARY: As required by the Federal Advisory Committee Act, as amended, the Farm Service Agency (FSA) announces two public meetings of the Dairy Industry Advisory Committee (Dairy Committee) to discuss farm milk price volatility and dairy farmer profitability, review various industry proposals and analysis, and hear public comments. The Dairy Committee is responsible for making recommendations to the Secretary on policy issues impacting the dairy industry. Instructions regarding registering for and attending the meetings are provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: *Public meetings:* The public meetings will be on September 23 and 24, 2010, and October 12 and 13, 2010.

Registration: You must register by September 21, 2010, to attend the September public meeting and by October 8, 2010, to attend the October public meeting.

Comments: Written comments are due by September 24, 2010, for the September meeting and by October 13, 2010, for the October meeting.

ADDRESSES: We invite you to participate in the meetings. The meetings are open to the public. The meetings on September 23 and 24 and October 12 will be held in room 104–A of the USDA Headquarters, Jamie L. Whitten Building at 12th Street, SW., and Jefferson Drive, Washington, DC 20250. The October 13 meeting will be held in room 3074 of the USDA Headquarters South Building at 12th Street and Independence Avenue, Washington, DC 20250. Instructions for registering and attending the meetings are in the **SUPPLEMENTARY INFORMATION** section of this notice.

You may submit comments by either of the following methods:

- *Online:* Go to *http://www.fsa.usda.gov/DIAC.* Follow the online instructions for submitting comments, or
- Orally at the meeting; please also provide a written copy of your comments.

FOR FURTHER INFORMATION CONTACT: Solomon Whitfield, Designated Federal Official; phone: (202) 720–9886; e-mail: *solomon.whitfield@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: In August 2009, USDA established the Dairy Committee. The Dairy Committee reviews issues of farm milk price volatility and dairy farmer profitability. The Dairy Committee provides recommendations to the Secretary on how USDA can best address these issues to meet the dairy industry's needs.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the dairy industry's needs. Equal opportunity practices were considered in all appointments to the Dairy Committee in accordance with USDA policies. The Secretary announced the members on January 6, 2010. Representatives include: Producers and producer organizations, processors and processor organizations, consumers, academia, a retailer, and a state representative.

The Dairy Committee will hold the meetings on the following dates and locations. The meetings are open to the public. The dairy industry and public are invited to provide oral comments at the meetings on September 23 and October 12, 2010, at the time designated on the agenda.

Date	Time	Location
September 23, 2010	8:30 a.m.–4 p.m.	USDA headquarters, in the Jamie Whitten Building, Room 104–A, 12th Street, SW. and Jefferson Drive, Washington, DC 20250.
September 24, 2010	10:30 a.m.–5 p.m.	USDA headquarters, in the Jamie L. Whitten Building, Room 104–A, 12th Street, SW. and Jefferson Drive, Washington, DC 2050.
October 12, 2010	8:30 a.m.–5 p.m.	USDA headquarters, in the Jamie L. Whitten Building, Room 104–A, 12th Street, SW. and Jefferson Drive, Washington, DC 20250.
October 13, 2010	8:30 a.m.–5 p.m.	USDA headquarters, in the South Building, Room 3074, 12th Street, SW. and Independence Avenue, Washington, DC 20250.

The purpose of the meetings is to:

- Discuss farm milk price volatility and dairy farmer profitability;
- Review various industry proposals and analysis; and
- Allow comments from the public.

Instructions for Attending the Meeting

Space for attendance at the meeting is limited. Due to USDA headquarters security and space requirements, all persons wishing to attend the public meetings or provide oral comments to the Dairy Committee during the public meetings must send an e-mail to *DIAC@wdc.usda.gov* by September 21, 2010, for the September meeting and by October 8, 2010, for the October meeting to register the names of those planning to attend. Public seating will be extremely limited on October 13, 2010, due to a change in meeting room. Registrations will be accepted until maximum room capacity is reached. Upon arrival at the USDA Whitten or South Buildings, registered persons must provide valid photo identification in order to enter the building. Additional information about the public meetings, meeting agendas, materials and minutes including directions and how to provide comments is available at the Dairy Committee Web site: *http://www.fsa.usda.gov/DIAC*.

The received comments will be distributed to Dairy Committee members for consideration at the meetings.

If you require special accommodations, such as a sign language interpreter, please use the contact information above.

Notice of these meetings is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended, (5 U.S.C. Appendix 2).

Signed in Washington, DC, on August 27, 2010.

Jonathan W. Coppess,

Administrator, Farm Service Agency.

[FR Doc. 2010–22013 Filed 9–2–10; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Global Intellectual Property Academy Program Survey

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 this new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 2, 2010.

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

- *E-mail: InformationCollection@uspto.gov.* Include "0651–00xx Global Intellectual Property Academy Program Survey comment" in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of J. David Binsted, Program Manager, Global Intellectual Property Academy, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone 571–272–1500; or by e-mail at *james.binsted@uspto.gov.*

SUPPLEMENTARY INFORMATION

I. Abstract

The U.S. Patent and Trademark Office plans to survey participants of the Global Intellectual Property Academy (GIPA) technical assistance programs. The survey data will be collected in order to obtain assessment data for the U.S. Government's accountability process, better known as the PART, or Program Assessment Rating Tool. Assessment of the GIPA programs will provide the USPTO information to implement best practices and program improvements, where necessary.

Participants will be limited to those individuals, both national and international, who have attended or are attending GIPA training. These surveys will be done in three parts: Pre-program, post-program, and alumnus. Program participants will be asked to complete the pre-program survey immediately prior to their program, the post-program survey immediately after the program, and the alumni survey approximately one year after the program. The surveys are expected to be conducted online using a recognized survey partner, the Federal Consulting Group.

Participants will access the online survey through links provided in e-mails or through the USPTO Web site. Participants will not need usernames, passwords, or survey ID numbers to access the online survey.

Survey responses will be kept confidential. The USPTO does not intend to collect any personal identifying data from participants taking the survey. Data collected from the survey will be linked to the participants. The USPTO intends to maintain contact information for the participants in a separate file from the quantitative data.

The USPTO expects to follow-up with participants who do not respond to the survey. Participants who do not respond will be contacted up to three times.

II. Method of collection

Electronically over the Internet or by e-mail. In-person surveys may potentially be conducted.

III. Data

OMB Number: 0651–00xx.

Form Number(s): None.

Type of Review: New collection.

Affected Public: Individuals.

Estimated Number of Respondents: 1,500 responses per year (500 participants × 3 surveys each).

Estimated Time per Response: The USPTO estimates that it will take approximately 20 minutes (0.33 hours) for participants to provide their responses. This estimate includes the time to gather the necessary information, complete the survey, and submit it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 495 hours.

Estimated Total Annual Respondent Cost Burden: $71,775. The audience for the GIPA training programs typically consists of high-ranking government officials, judges, lawyers, examiners, and others. The USPTO estimates that roughly 20% of the attendees fall into the high-ranking categories, while the rest make up 80% of the attendees. The USPTO estimates that the hourly labor rate for 20% of the attendees would be roughly equivalent to the professional hourly rate of $325, while the rest would be roughly equivalent to the para-professional rate of $100. Using these U.S. hourly rates, the USPTO estimates a professional hourly rate of $65 (20% of $325) and a para-professional rate of $80 (80% of $100), for a total hourly rate of $145. Using the total hourly rate, the USPTO estimates $71,775 per year for salary costs associated with respondents.

Item	Estimated time for response (min)	Estimated annual responses	Estimated annual burden hours
Pre-Program Survey	20	500	165
Post Program Survey	20	500	165
Alumnus Survey	20	500	165
Totals		1,500	495

Estimated Total Annual Non-Hour Respondent Cost Burden: $0. There are no capital start-up, maintenance, recordkeeping, or postage costs associated with these surveys, nor are there any filing or other fees for these surveys.

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, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2010–22041 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

Education Trade Mission to Indonesia and Vietnam

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS) is organizing an education trade mission to Indonesia and Vietnam, April 3–8, 2011. Led by a senior Department of Commerce official, the mission to these two countries is intended to include representatives from a variety of accredited U.S. education institutions. However, the emphasis will be on community colleges, intensive English language programs, and undergraduate programs. English language programs seeking to participate should be accredited by CEA (Commission on English Language Program Accreditation) or ACCET (Accrediting Council for Continuing Education and Training); community colleges and undergraduate programs seeking to participate should be accredited by one of the six regional institutional accreditors in the United States.

The mission will introduce participants to potential students and prospective partners. Participating in the Education Trade Mission, rather than traveling to these markets independently, will enhance the schools' ability to secure the appropriate meetings, especially in light of the high level engagement and support of U.S. education by the U.S. ambassadors in each of these countries. The mission will include education sector briefings, and a student fair at each stop with the options of matchmaking sessions with potential recruitment partners, or networking sessions with local schools. Trade mission participants will interact with CS education specialists as well as other State Department advisors and officers to discuss opportunities, challenges and marketing strategies for each market.

Commercial Setting

Vietnam

With a population of 86 million, a steadily increasing per capita income, a booming private sector, and the high value the Vietnamese place on education, Vietnam offers significant opportunities to U.S. providers of education services. Vietnam presently has over 20,000 students studying abroad, paying about $200 million in tuition and fees every year. Of those, 13,000 are studying in the U.S. With an increase of 46% over last year, Vietnam ranks 9th among countries sending students to the U.S. This increase is the 6th consecutive double-digit increase in Vietnamese students going to the U.S. Notably, Vietnam ranks 3rd among countries sending international students to the U.S. to study at community colleges. English as a Second Language and English immersion programs and majors such as business management, engineering, information technologies, and sciences are popular among Vietnamese students.

Education reform has not kept pace with economic development in Vietnam, and improving the education system will be crucial to sustaining long-term growth. Education has become a key feature in bilateral cooperation between Vietnam and the U.S. The U.S. Embassy in Hanoi has made the development of education in Vietnam a top priority, including dramatically increasing the number of Vietnamese students studying at U.S. institutions of higher learning and encouraging greater educational exchange between the U.S. and Vietnam.

Indonesia

Indonesia, as the world's fourth largest nation and one of the G–20's strongest economies, is a tremendous potential market for U.S. educational institutions. There are numerous State-owned and private national and international high schools and prospects for the higher education market are good. Most Indonesian students are keen to study abroad and the U.S. has been one of the most desired destinations.

Under President Obama's U.S.-Indonesia Comprehensive Partnership, the education sector is the number one priority. The U.S. Embassy in Jakarta has a goal to double the current number of Indonesian students studying at U.S. educational institutions by 2014 to 15,000.

At present, there are over 50,000 Indonesian students overseas, including, 7,692 students in the United States. Of these, approximately 64 percent are pursuing undergraduate degrees. Indonesia ranks 16th among countries sending students to the U.S.

Indonesia is also a leading market for U.S. community colleges. In addition to two-and-four year programs, Indonesia offers a promising market for ESL. While English-language is commonly taught in most high schools, most Indonesian students need to attend an intensive English-language preparation class before being qualified for admission to undergraduate studies.

Mission Goals

The short term goals of the education trade mission to Vietnam and Indonesia are to (1) introduce accredited U.S. schools to potential students in each market (2) introduce these U.S. schools to potential partners and other industry representatives, and (3) inform mission members of local cultural, political and economic factors in Indonesia and Vietnam that will affect both student recruitment strategies and the opportunities/challenges related to establishing partnerships.

Mission Scenario

In Jakarta, the trade mission participants will be presented with a briefing by the U.S. Embassy's Counselor for Commercial Affairs, the Senior Commercial Specialist for the education sector and other key U.S. Government and corporate officials. Participants will take part in an education fair. Participants will also have the option to take part in a matchmaking session with student recruitment agents or attend a roundtable presentation by local schools that wish to partner with U.S. schools.

In Ho Chi Minh City, participants will take part in education sector briefings by Consulate officers, corporate executives and local education sector experts, and exhibit at an education fair for parents and students. Participants will also have the option to take part in a matchmaking session with student recruitment agents or attend a roundtable presentation by local schools that wish to partner with U.S. schools.

In Hanoi, the U.S. mission members will be briefed by the U.S. Embassy's Counselor for Commercial Affairs, the Senior Commercial Specialist for the education sector and other key U.S. Government officials, corporate executives and education experts. Participants will exhibit at an education fair for parents and students. Participants will also have the option to take part in a matchmaking session with student recruitment agents or attend a roundtable presentation by local schools that wish to partner with U.S. schools.

At all stops, participants will have networking opportunities with various multipliers such as Education USA, education consultants, U.S. Indonesia Society, Institute of Education Exchange, school counselors, etc. U.S. participants will be counseled before and after the mission by a domestic mission coordinator. Participation in the mission will include the following:

- Pre-travel briefings/webinar on subjects ranging from opportunities in the education sectors to security;
- A student fair in Jakarta, Ho Chi Minh City, and Hanoi;
- Education sector briefings in each city;
- Participants will have the option of networking meetings with student recruitment agents *or* a roundtable with local universities that are interested in foreign partnerships in each city;
- Airport transfers in Jakarta, Ho Chi Minh City, and Hanoi;
- Meetings with CS education industry specialists in Jakarta, Ho Chi Minh City, and Hanoi.

Proposed Mission Timetable

Mission participants will be encouraged to arrive April 2, 2011 and the mission program will proceed from April 3 through April 8, 2011.

April 2	Jakarta Arrive in Jakarta.
April 3	Jakarta Education Fair.
April 4	Jakarta Education Seminar/briefings by U.S. Embassy officials. Option A: Matchmaking Session with student recruitment agents. Option B: Visit to 2–3 high schools (feeder schools) and meet with student counselors.
April 5	Ho Chi Minh City. Travel to Ho Chi Minh City.
April 6	Ho Chi Minh City Market briefings by U.S. Consulate officials/Education Sector Executives. Option A: Matchmaking Session with student recruitment agents. Option B: Roundtable with local schools that wish to partner with U.S. schools. Education Fair.
April 7	Hanoi Travel to Hanoi.
April 8	Hanoi Market briefings by U.S. Embassy officials. Option A: Matchmaking Session with student recruitment agents. Option B: Roundtable with local schools that wish to partner with U.S. schools. Education Fair.
April 9	Depart Hanoi.

Participation Requirements

All parties interested in participating in the Education Mission to Indonesia and Vietnam must complete and submit an application for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 40 and a maximum of 70 educational institutions will be selected to participate in the mission from the applicant pool. U.S. education institutions already providing training to Indonesian and Vietnamese students as well as U.S. educational institutions seeking to enter the market for the first time are encouraged to apply.

Fees and Expenses

After an educational institution has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $2,930 to cover one representative. The fee for each additional representative is $600. Expenses for travel, lodging, most

meals, interpreters, and incidentals will be the responsibility of each mission participant.

Conditions for Participation

- Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on the schools accreditation, primary market objectives, and goals for participation. If the U.S. Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.
- Applicants must provide detailed information on their mission objectives, and specify their options for matchmaking with agents and/or meetings with local schools in each city.
- Each applicant must also certify that the services it seeks to export through the mission benefit a U.S. based institution.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Applicant must be appropriately accredited as per paragraph one.
- Suitability of the education institution to the mission's goals
- Applicant's potential for business in Vietnam and Indonesia, including likelihood of exports resulting from the trade mission
- Consistency of the applicant's goals and objectives with the stated scope of the trade mission (as an example—be in the education sectors indicated in the mission description)

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than Friday, January 14, 2011. The U.S. Department of Commerce will review all applications immediately after the deadline. We will inform applicants of selection decisions as soon as possible after January 14, 2011. Applications received after that date will be considered only if space and scheduling constraints permit.

Contacts

U.S. Commercial Service Domestic Contact

Debra Rogers, 312–353–6988, *Debra.Rogers@trade.gov*.
Gabriela Zelaya, (408) 535–2757, x107, *Gabriela.Zelaya@trade.gov*.
Bernadette Rojas, (216) 522–4740, *Bernadette.Rojas@trade.gov*.
Greg Thompson, 214–712–1932, *Greg.Thompson@trade.gov*.

U.S. Commercial Service Vietnam Contacts

Ho Chi Minh City:

Dave Averne, Commercial Officer, *Dave.Averne@trade.gov*.
Le Anh, Commercial Specialist, *Le.Anh@trade.gov*.

Hanoi:

Yasue Pai, Commercial Officer, *Yasue.Pai@trade.gov*.
Tuyet Trees, *Tuyet.trees@trade.gov*.
Ngo Anh, *Ngo.Anh@trade.gov*.

U.S. Commercial Service Indonesia Contacts

Jakarta:

Joe Kaesshaefer, Senior Commercial Officer, *Joe.Kaesshaefer@trade.gov*.
Henry Sutanto, Commercial Specialist, *Henry.Sutanto@trade.gov*.

Sean Timmins,

Trade Promotion Programs, Commercial Service Trade Missions Program.

[FR Doc. 2010–22136 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Patricia Tran at (202) 482–1503 or Mahnaz Khan at (202) 482–0914; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On January 29, 2010, the Department of Commerce ("Department") published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 2008 through November 30, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Initiation of Administrative Review,* 75 FR 4770 (January 29, 2010). The current deadline for the preliminary results of this administrative review is September 9, 2010.[1]

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results of review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Extension of Time Limit for Preliminary Results

The Department requires additional time to review and analyze the sales and factors of production responses in this administrative review. The Department has also found the need to issue additional supplemental questionnaires to respondents in this review. Moreover, the Department requires additional time to analyze complex issues related to

[1] As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. The revised deadline for the preliminary results of the 2008–2009 antidumping duty administrative review is therefore September 9, 2010. The final results of this review continue to be due 120 days after the publication of the preliminary results.

surrogate value selections. Thus, it is not practicable to complete this review within the originally anticipated time limit (*i.e.,* by September 9, 2010). Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days to not later than January 7, 2011, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 30, 2010.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–22083 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On March 15, 2010, the Department of Commerce (the "Department") published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar ("SSB") from India for the period February 1, 2008, through January 31, 2009. *See Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review* 75 FR 12199 (March 15, 2010) ("*Preliminary Results*"). The Department conducted a post-preliminary analysis and released the results of the analysis on May 19, 2010. We gave the interested parties an opportunity to comment on the *Preliminary Results* and the post-preliminary analysis. Based on our analysis of the comments received, we have made changes to the margin calculation. The final weighted-average dumping margins for the reviewed firms, Ambica Steels Limited ("Ambica") and Venus Wire Industries Pvt. Ltd.,[1] are listed below in the section entitled "Final Results of Review."

DATES: *Effective Date:* September 3, 2010.

FOR FURTHER INFORMATION CONTACT: Patricia Tran, Seth Isenberg, or Austin Redington, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–1503, (202) 482–0588, or (202) 482–1664, respectively.

SUPPLEMENTARY INFORMATION:

Background

In the *Preliminary Results,* we relied on "facts otherwise available" in determining that there was linkage between Venus' costs and prices, which resulted in Venus' antidumping margin being calculated using quarterly costs. We also noted in the *Preliminary Results* that we would reexamine this issue based on additional information submitted by the company. On May 19, 2010, we released our post-preliminary analysis in which we determined that the application of the quarterly costing methodology to Venus was not warranted because we did not find correlation between cost and price trends. *See* Memorandum from Susan Kuhbach through John M. Andersen to Ronald K. Lorentzen: "2008–2009 Administrative Review of the Antidumping Duty Order on Stainless Steel Bar From India—Post-Preliminary Analysis Calculation Memorandum for Venus Wire Industries Pvt. Ltd." and "Memorandum From LaVonne Clark Through Theresa C. Deeley to Neal Halper: Cost of Production and Constructed Value Calculation Adjustments for the Post-Preliminary Results—Venus Wire Industries Pvt. Ltd.," dated May 19, 2010.

On July 16, 2010, the Department published in the **Federal Register** an extension of the time limit for the completion of the final results of this review until no later than August 27, 2010, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213(h)(2). *See Stainless Steel Bar From India: Extension of Time Limit for the Final Results of the 2008–2009 Antidumping Duty Administrative Review,* 75 FR 41438 (July 16, 2010).

We invited parties to comment on the *Preliminary Results.* We received case briefs on June 3, 2010, from Venus and June 7, 2010, from Carpenter Technology Corporation, Valbruna Slater Stainless, Inc., Electralloy Corporation, a Division of G.O. Carlson, Inc., Universal Stainless ("Petitioners"). On June 16, 2010, Venus submitted a rebuttal brief, and on June 18, 2010, Petitioners submitted a rebuttal brief. Ambica did not submit any comments. None of the parties requested a hearing.

Scope of the Order

Imports covered by the order are shipments of SSB. SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (*i.e.,* cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

The SSB subject to this review is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of the order. *See* Memorandum from Team to Barbara E. Tillman, "Antidumping Duty Orders on Stainless Steel Bar From India and Stainless Steel Wire Rod from India: Final Scope Ruling," dated May 23, 2005, which is on file in the Central

[1] For the reasons explained in the *Preliminary Results,* we have determined that Venus Wire Industries Pvt. Ltd. and its affiliates, Precision Metals and Sieves Manufacturers (India) Pvt. Ltd., should be treated as a single entity and collapsed for the purposes of this review. *See* Memorandum from Erika McDonald to the File, "Relationship of Venus Wire Industries Pvt. Ltd. and Sieves Manufacturers (India) Pvt. Ltd.," dated September 15, 2009; *see also* Memorandum from Erika McDonald to the File, "Relationship of Venus Wire Industries Pvt. Ltd. and Precision Metals," dated September 14, 2009. The collapsed entity is referred to as "Venus."

Records Unit ("CRU") in room 1117 in the main Department building. *See also Notice of Scope Rulings,* 70 FR 55110 (September 20, 2005).

Analysis of Comments Received

All issues raised in the case briefs are addressed in the "Issues and Decision Memorandum for the 2008–2009 Administrative Review of Stainless Steel Bar From India" ("Issues and Decision Memorandum"), which is dated concurrently with and hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document which is on file in the CRU, and is accessible on the web at *http://www.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 our analysis of the comments received, we made the following changes in calculating dumping margins: (1) We corrected a clerical error identified by Venus regarding its reporting of international freight expenses; (2) we adjusted the transfer price for the affiliated inputs to market price pursuant to section 773(f)(2) of the Act; and (3) we corrected a ministerial error of adding rather than deducting selling expenses from the home market price. *See* Issues and Decision Memorandum at Comments 2, 4, and 7. For further details on how these changes were applied in the calculation, *see* "Analysis for the Final Results of Antidumping Duty Administrative Review of Stainless Steel Bar From India: Venus Wire Industries Pvt. Ltd.," dated August 27, 2010.

Final Results of the Review

We determine that the following weighted-average dumping margins exist for Venus and Ambica for the period February 1, 2008 through January 31, 2009.

Manufacturer/exporter	Weighted-average margin percent
Venus	[1]0.42
Ambica	0.00

[1] *de minimis.*

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). The Department intends to issue appropriate assessment instructions for the companies subject to this review to CBP 15 days after the date of publication of these final results.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by the respondent for which it has reported the importer of record and the entered value of all the U.S. sales to that importer, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Where the respondent did not report the entered value for all U.S. sales to an importer, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales.

To determine whether the duty assessment rates were *de minimis* (*i.e.,* less than 0.50 percent) in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on reported and estimated entered values (when no entered value was reported). Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis.*

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of SSB from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis,* the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 12.45 percent, the "all others" rate established in the LTFV investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India,* 59 FR 66915 (December 28, 1994). These cash deposit requirements, when imposed, 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.

These final results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 27, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comment 1: Whether to Include Venus' Home Market Sample Sales
Comment 2: Correction of Clerical Error in Venus' Sales Database
Comment 3: Offsetting Negative Margins
Comment 4 Alleged Reporting Deficiencies for Venus and Sieves
Comment 5: Whether the Department Should Repeat its Linkage Test
Comment 6: Whether Linkage Exists Between Venus' and Sieves' Costs and Sales Prices
Comment 7: Ministerial Error

[FR Doc. 2010–22084 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1700]

Grant of Authority for Subzone Status: CNH America, LLC (Agricultural Equipment Manufacturing); Grand Island, Nebraska

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Lincoln Foreign Trade Zone, Inc., grantee of FTZ 59, has made application to the Board for authority to establish a special-purpose subzone at the agricultural combine and hay tools manufacturing and distribution facilities of CNH America, LLC (CNH), located in Grand Island, Nebraska (FTZ Docket 11–2010, filed 2/16/2010);

Whereas, notice inviting public comment has been given in the **Federal Register** (75 FR 8652, 2/25/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest.

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing and distribution of agricultural combines and hay tools at the facilities of CNH America, LLC, located in Grand Island, Nebraska (Subzone 59B), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 19th day of August 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–21574 Filed 9–2–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XY68

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Observer Advisory Committee (OAC) will meet at the Anchorage Hilton Hotel, September 28–29, 2010.

DATES: The meeting will be held September 28–29, 2010, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Nicole Kimball, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to review the public review draft analysis to establish a new program for observer procurement and deployment in the North Pacific Groundfish Observer Program (i.e., restructuring). The committee will also receive a report on an electronic monitoring study in the commercial halibut fishery. The agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 30, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–22009 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XY69

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Scallop Plan Team will meet September 28th, 2010 at the Anchorage Hilton Hotel.

DATES: The meeting will be held on September 28, 2010, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Anchorage Hilton Hotel, 500 West 3rd Avenue, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: Agenda: Review final Scallop Annual Catch Limit (ACL) analysis and recommend a preferred approach.

The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 30, 2010.

Tracey L.Thompson,

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

[FR Doc. 2010–22010 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XY77

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel, in September, 2010, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, September 22, 2010 at 9 a.m.

ADDRESSES: This meeting will be held at the Courtyard by Marriott, 32 Exchange Terrace, Providence, RI 02903; telephone: (401) 272–1191; fax: (401) 272–1416.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Advisory Panel will review Amendment 15 DEIS alternatives and analyses, as well as input from previous public hearings and written public comments. Amendment 15 is considering measures to comply with annual catch limits, measures to address excess capacity in the limited access scallop fishery, as well as a handful of other measures to make the program more effective such as specific adjustments to the general category IFQ program, modifications to the research set-aside program, adjustments to the overfishing definition, modifications to EFH closed areas and changing the start of the fishing year. The panel will identify recommendations for the Scallop Oversight Committee to consider as preferred alternatives the following day. The Council is scheduled for final action on Amendment 15 at their September 28–30, 2010 Council meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 31, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–22092 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XY76

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Committee, in September, 2010, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, September 23, 2010 at 9 a.m.

ADDRESSES: This meeting will be held at the Courtyard by Marriott, 32 Exchange Terrace, Providence, RI 02903; telephone: (401) 272–1191; fax: (401) 272–1416.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review Amendment 15 DEIS alternatives and analyses as well as input from the Scallop Advisory Panel and Plan Development Team. When possible, the Committee will identify preferred alternatives for the Council to consider when it takes final action on Amendment 15 at their September 28–30, 2010 Council meeting. If time permits, other issues may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 31, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–22091 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XT21

Marine Mammals; File No. 555–1870

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that James T. Harvey, Ph.D., Moss Landing Marine Laboratories, 8272 Moss Landing Road, Moss Landing, CA

95039, has been issued a major amendment to Permit No. 555–1870–01.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 8, 2010, notice was published in the **Federal Register** (75 FR 39206) that a request for an amendment to Permit No. 555–1870–01 to conduct research on harbor seals (Phoca vitulina) had been submitted by the above-named applicant. The amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit amendment (Permit No. 555–1870–02) authorizes an increase in the number of subadult harbor seals taken annually in California by capture, sedation, tagging, and sampling from 40 seals (20 males and 20 females) to 70 seals (35 males and 35 females). Also, a pilot study is authorized to bring up to six seals into temporary captivity to assess the efficacy of a modified sedation and suture protocol for implantation of subcutaneous radio tags. If effective, the modified protocols will be implemented in the field. The permit expires April 15, 2012.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: August 25, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–22075 Filed 9–3–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY74

Marine Mammals; File No. 486–1790

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that Brent Stewart, Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, California 92109 has been issued a minor amendment to Scientific Research Permit No. 486–1790–00.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Mike Payne or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The original permit (No. 486–1790–00) was issued on January 4, 2006 and was valid through October 1, 2010. It authorizes capture of California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and northern fur seals (*Callorhinus ursinus*) of any age on the southern California Channel Islands and surrounding waters for continuation of studies begun in 1978 on the demography, physiological ecology, foraging ecology, and behavior of pinnipeds in California. Marine mammals may be captured by a variety of techniques; physically or chemically immobilized; have blood, skin, blubber, muscle, urine, feces, and various skin and mucousal swabs collected; receive flipper tags; have radio transmitters attached; receive exams of musculoskeletal and cardiovascular systems, ears, nares, oral cavity, and eyes. The permit also allows for mortality of up to two animals of each species per year incidental to the research. The minor amendment (No. 486–1790–01) extends the duration of the permit through October 1, 2011, but does not change any other terms or conditions of the permit.

Dated: August 30, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–22076 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT 8/17/2010 THROUGH 8/27/2010

Firm name	Address	Date accepted for filing	Products
American Standard Circuits, Inc.	475 Industrial Drive, West Chicago, IL 60185.	08/18/10	The company is a manufacturer of printed circuit boards for the military, aerospace, industrial, commercial, medical, telecommunications, computer, radar and transportation industries.
Diamond Roltran, LLC	59 Porter Road, Littleton, MA 01460.	08/27/10	The company manufactures roll rings. Roll rings transfer power, data and signals over rotary interfaces. They are custom designed, although there are four basic types: Flexures, couplers, roll blocks and flex wheels.
Manchester Wood, Inc	180 North Street, Granville, NY 12832–9438.	08/18/10	The company produces wooded furniture for the retailing industry including TV tray tables, kitchen gourmet carts and Adirondack style furniture.
McVan, Inc	35 Frank Mossberg Drive, Attleboro, MA 02703.	08/23/10	The company manufactures gold, silver and pewter jewelry and religious products. Their manufacturing process consists of stamping and casting.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: August 27, 2010.

Miriam J. Kearse,

Program Team Lead.

[FR Doc. 2010–22123 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY12

Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Seismic Survey in the Eastern Tropical Pacific Ocean Off Central and South America, October–November 2010

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

ACTION: Notice; proposed Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received an application from the Scripps Institution of Oceanography (SIO) of the University of California for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a low-energy marine seismic survey. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to SIO to take, by Level B Harassment only, 21 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than October 4, 2010.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing e-mail comments is *PR1.0648–XY12@noaa.gov.* NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (*see* **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The National Science Foundation (NSF), which is providing funding for the proposed action, has prepared a draft Environmental Assessment (EA) titled "Marine Geophysical Survey by the R/V *Melville* in the Pacific Ocean off Central and South America, October–November 2010". The NSF draft EA incorporates an "Environmental Assessment of a Marine Geophysical Survey by the R/V *Melville* in the Pacific Ocean off Central and South America, October–November 2010", prepared by LGL Limited, Environmental Research Associates, on behalf of NSF. These associated documents, prepared in compliance with the National Environmental Policy Act (NEPA), are also available at the same Internet address. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Ben Laws or Candace Nachman, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed

authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

NMFS received an application on May 28, 2010 from SIO for the taking, by harassment, of marine mammals incidental to conducting, in collaboration with Texas A&M University and with research funding provided by the National Science Foundation, a low-energy marine seismic survey. NMFS reviewed SIO's application and identified a number of issues requiring further clarification. After addressing comments from NMFS, SIO modified its application and submitted a revised application on July 14, 2010. NMFS carefully evaluated SIO's application, including their analyses, and determined that the application is complete and provides sufficient data for NMFS to make the necessary preliminary determinations pursuant to the MMPA. The July 14, 2010 application is the one available for public comment (*see* **ADDRESSES**) and considered by NMFS for this proposed IHA.

The proposed survey will occur in the Eastern Tropical Pacific Ocean (ETP), encompassing the area from approximately 8° N–12° S and 80–91° W, off the coasts of Costa Rica, Panama, Colombia, Ecuador, and Peru, in International Waters and within the Exclusive Economic Zones (EEZs) of Costa Rica, Panama, Colombia, and Ecuador, and is scheduled to occur from October 19–November 14, 2010. Some minor deviation from these dates is possible, depending on logistics and weather. The survey will use a pair of Generator Injector (GI) airguns, each with a discharge volume of 45 in^3. Seismic airgun operations are expected to result in the incidental take, by Level B harassment only, of up to 21 species of marine mammals. These species include: Bryde's whale; blue whale; sperm whale; humpback whale; Cuvier's beaked whale; Blainville's beaked whale; pygmy beaked whale; gingko-toothed beaked whale; rough-toothed dolphin; bottlenose dolphin; pantropical spotted dolphin; spinner dolphin; striped dolphin; Fraser's dolphin; short-beaked common dolphin; Risso's dolphin; melon-headed whale; pygmy killer whale; false killer whale; killer whale; and short-finned pilot whale.

Description of the Specified Activity

SIO plans to conduct a seismic survey as part of an integrated geophysical and geochemical study. In addition to the GI airguns, a multibeam echosounder (MBES) and a sub-bottom profiler (SBP) will be utilized for research purposes. The planned survey will involve one source vessel, the R/V *Melville* (*Melville*).

The purpose of this project is to better understand how marine sediments record paleo-oceanographic information. The deposition of sediments in the upper 500 m (1640.4 ft) of the sediment column will be studied using known seismic horizons in the sediment column to estimate rates of deposition downstream from potential sediment sources on the topographic highs and to estimate loss from the ridges. The seismic survey and associated coring and water sampling will allow comparisons of geophysical estimates of the level of erosion from marine ridges and highs with geochemical estimates of sediment focusing based upon the distribution of Th-230, a particle-reactive isotope produced by the decay of dissolved uranium in the water column. In addition, the study will examine whether there are sediment sources for Th-230 in slowly-accumulating sediments.

The *Melville* is expected to depart Puntarenas, Costa Rica, on October 19, 2010, and spend approximately 15 days conducting seismic surveys, 10 days collecting water and core samples, and approximately 2 days in transit, arriving at Arica, Chile, on November 14, 2010. At each of four sites (*see* Figure 1 of SIO's application), seismic operations will be conducted for approximately 2 days, and each water sampling and coring station will be occupied for 1–2 days. Some minor deviation from these dates is possible, depending on logistics and weather.

The source vessel, the *Melville,* will deploy a pair of low-energy GI airguns as an energy source at a depth of 2 m (each with a discharge volume of 45 in^3), plus either of two towed hydrophone streamers, one 725 m (2378.6 ft) long with 40 channels, and the other 350 m (1148.3 ft) long with 16 channels. Hydrophone streamers are towed at adjustable depth to afford best reception of returning seismic signals, depending upon surface conditions, but are typically towed in at approximately 10 m. The energy to the GI airgun is compressed air supplied by compressors onboard the source vessel. As the GI airgun is towed along the survey lines, the receiving systems will receive the returning acoustic signals.

In addition to the GI airguns, an MBES and an SBP will be used throughout the cruise, except while at water/core stations, to help verify seafloor conditions at possible coring sites and to collect additional seafloor bathymetric data. Passive geophysical sensors (a gravimeter and a magnetometer) will also be operated continuously throughout the entire cruise.

All potential incidental take, by harassment only, is expected to result from the operation of the GI airguns. Take is not expected to result from the use of the MBES or SBP, for reasons discussed below, or from collision with the vessel because it is a single vessel, moving at a relatively slow speed (operational speeds of approximately 11 km/hr [6 knots] during seismic acquisition within the survey areas and 15–18.5 km/hr [8–10 knots] between survey areas and stations), for a relatively short period of time (approximately 30 days). It is likely that any marine mammal would be able to avoid the vessel.

The seismic program will consist of approximately 5475 km (3402 mi) of

survey lines, including turns (*see* Figure 1 of SIO's application). Water depths at the seismic survey locations are approximately 1000–4800 m (3280.8–15,748 ft). The GI airguns will be operated on a small grid for approximately 45 hours at each of four sites (*see* Figure 1 of SIO's application) where the 40-channel streamer will be used, and for most of the time during transits between the sites, to the first site, and after the last site, where the 12-channel streamer will be used. There will be additional seismic operations associated with equipment testing, startup, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. Those additional operations are allowed for in the estimated total line-kilometers given above. The *Melville* is expected to depart Puntarenas, Costa Rica, on October 19, 2010 and spend approximately 15 days conducting seismic surveys, 10 days collecting water and core samples, and approximately 2 days in transit, arriving at Arica, Chile, on November 14, 2010.

All planned geophysical data acquisition activities will be conducted by SIO with on-board assistance by the scientists who have proposed the study. The Chief Scientist is Dr. Franco Marcantonio of Texas A&M University. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

Vessel Specifications

The *Melville* has a length of 85 m (278.9 ft), a beam of 14 m (45.9 ft), and a maximum draft of 5 m (16.4 ft). The ship is powered by two 1385-hp diesel engines and a 900-hp retracting azimuthing bow thruster. Operation speeds of approximately 11 km/hr (5.9 knots) and 15–18.5 km/hr (8.1–10 knots) will be used during seismic acquisition within the survey areas and between the areas and stations, respectively. When not towing seismic survey gear, the *Melville* cruises at 21.7 km/hr (11.7 knots) and has a maximum speed of 25.9 km/hr (14 knots). The *Melville* will also serve as the platform from which vessel-based protected species observers (PSOs) will watch for animals before and during airgun operations (discussed later in this document).

Acoustic Source Specifications

(1) Seismic Airguns

The *Melville* will tow a pair of 45-in^3 Sercel GI airguns and a streamer containing hydrophones along predetermined lines. Seismic pulses will be emitted at intervals of 8–10 s. At speeds of approximately 11–18.5 km/hr (5.9–10 knots), the 8–10 s spacing corresponds to shot intervals of approximately 25–50 m (82–164 ft).

The generator chamber of each GI airgun, responsible for introducing the sound pulse into the ocean, is 45 in^3. The larger (105-in^3) injector chamber injects air into the previously-generated bubble to maintain its shape and does not introduce more sound into the water. The two 45-in^3 GI airguns will be towed 8 m (26.2 ft) apart side by side, 21 m (68.9 ft) behind the *Melville,* at a depth of 2 m (6.6 ft).

As the GI airgun is towed along the survey line, the towed hydrophone array in the streamer receives the reflected signals and transfers the data to the on-board processing system. Given the relatively short streamer length behind the vessel, the turning rate of the vessel while the gear is deployed is much higher than the limit of five degrees per minute for a seismic vessel towing a streamer of more typical length (greater than l km (0.6 mi)). Thus, the maneuverability of the vessel is not limited much during operations.

The root mean square (rms) received levels that are used as impact criteria for marine mammals are not directly comparable to the peak (pk or 0-pk) or peak-to-peak (pk-pk) values normally used to characterize source levels of airgun arrays. The measurement units used to describe airgun sources, peak or peak-to-peak decibels, are always higher than the rms decibels referred to in biological literature. A measured received level of 160 dB re 1 μPa (rms) in the far field would typically correspond to a peak measurement of approximately 170 dB and to a peak-to-peak measurement of approximately 176–178 dB, as measured for the same pulse received at the same location (Greene, 1997; McCauley *et al.,* 1998, 2000). The precise difference between rms and peak or peak-to-peak values depends on the frequency content and duration of the pulse, among other factors. However, the rms level is always lower than the peak or peak-to-peak level for an airgun-type source. The actual received level at any location in the water near the GI airguns will not exceed the source level of the strongest individual source. In this case, that will be about 224.6 dB re 1 μPa-m peak or 229.8 dB re 1 μPa-m peak-to-peak. The dominant frequency components of the GI airguns are 0–188 Hertz (Hz).

Received sound levels have been modeled by Lamont-Doherty Earth Observatory (L–DEO) for a number of airgun configurations, including two 45 in^3 Nucleus G. Guns, in relation to distance and direction from the airgun (*see* Figure 2 of SIO's application). The model does not allow for bottom interactions and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airguns where sound levels of 190, 180, and 160 dB re 1 μPa (rms) are predicted to be received in deep (>1,000 m (3280.8 ft)) water are shown in Table 1 below. Because the model results are for G. Guns, which have more energy than GI airguns of the same size, the distances in Table 1 overestimate the distances for the 45 in^3 GI airguns.

(2) Multibeam Echosounder and Sub-Bottom Profiler

Along with the GI airgun operations, an MBES and a SBP will be operated from the source vessel at certain times during the planned study to help verify seafloor conditions at possible coring sites and to collect additional seafloor bathymetric data.

The Kongsberg EM 122 MBES operates at 10.5–13 (usually 12) kilohertz (kHz) and is hull-mounted on the *Melville.* The transmitting beamwidth is 1° fore-aft and 150° athwartship. The maximum source level is 242 dB re 1 μPa-m (rms). Each "ping" consists of eight (in water >1000 m deep) or four (<1000 m deep) successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore-aft. Continuous-wave pulses increase from 2 to 15 ms long in water depths up to 2600 m (8530.2 ft), and FM chirp pulses up to 100 ms long are used in water >2600 m. The successive transmissions span an overall cross-track angular extent of about 150°, with 2-ms gaps between the pulses for successive sectors.

The Knudsen Engineering Model 320B/R SBP is a dual-frequency transceiver designed to operate at 3.5 and/or 12 kHz. It is used in conjunction with the MBES to provide data about the sedimentary features that occur below the sea floor. The energy from the SBP is directed downward via a 3.5-kHz transducer array mounted in the hull of the *Melville.* The maximum power output of the 320B/R is 10 kilowatts for the 3.5-kHz section and 2 kilowatts for the 12-kHz section. The nominal beamwidth is 80°.

The pulse length for the 3.5-kHz section of the 320B/R is 0.8–24 ms, controlled by the system operator in regards to water depth and reflectivity of the bottom sediments and will usually be 6, 12, or 24 ms at the water depths at the study sites and in transit from Puntarenas and to Arica. The system produces one sound pulse and then waits for its return before transmitting again. Thus, the pulse

interval is directly dependent upon water depth, and in this survey is 0.8–1.5 s. Using the Sonar Equations and assuming 100 percent efficiency in the system (impractical in real world applications), the source level for the 320B/R is calculated to be 211 dB re 1 μPa-m. In practice, the system is rarely operated above 80 percent power level.

(3) Safety Radii

NMFS has determined that for acoustic effects, using acoustic thresholds in combination with corresponding safety radii is an effective way to consistently apply measures to avoid or minimize the impacts of an action, and to quantitatively estimate the effects of an action. Thresholds are used in two ways: (1) To establish a mitigation shut-down or power-down zone, *i.e.,* if an animal enters an area calculated to be ensonified above the level of an established threshold, a sound source is powered down or shut down; and (2) to calculate take, in that a model may be used to calculate the area around the sound source that will be ensonified to that level or above, then, based on the estimated density of animals and the distance that the sound source moves, NMFS can estimate the number of marine mammals that may be "taken."

As a matter of past practice and based on the best available information at the time regarding the effects of marine sound, NMFS estimates that Level A harassment from acoustic sources may occur when animals are exposed to levels above 180 dB re 1 μPa (rms) level for cetaceans and 190 dB re 1 μPa (rms) for pinnipeds. A review of the available scientific data using an application of science-based extrapolation procedures (Southall *et al.,* 2007) strongly suggests that Level A harassment (as well as temporary threshold shift (TTS)) from single sound exposure impulse events may occur at much higher levels than the levels previously estimated using very limited data. However, for purposes of this proposed action, SIO's application sets forth, and NMFS is using, the more conservative 180 and 190 dB re 1 μPa (rms) criteria. NMFS also considers 160 dB re 1 μPa (rms) as the criterion for estimating the onset of Level B harassment from acoustic sources producing impulse sounds, as in this seismic survey.

Empirical data concerning the 180- and 160-dB distances have been acquired based on measurements during the acoustic verification study conducted by L–DEO in the northern Gulf of Mexico from May 27–June 3, 2003 (Tolstoy *et al.,* 2004). Although the results are limited, the data showed that radii around the airguns where the received level would be 180 dB re 1 μPa (rms), the safety criterion applicable to cetaceans (NMFS 2000), vary with water depth. Similar depth-related variation is likely in the 190 dB distances applicable to pinnipeds. Correction factors were developed for water depths 100–1000 m and <100 m. The proposed survey will occur in depths of approximately 1000–4800 m, so the correction factors for shallow water are not relevant here. All of the seismic operations will be in depths >1000 m.

The empirical data indicate that, for deep water (>1000 m), the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). However, to be precautionary pending acquisition of additional empirical data, it is proposed that safety radii during GI airgun operations in deep water will be values predicted by L–DEO's model (*see* Table 1 in this document). Therefore, the assumed 180- and 190-dB radii are 40 m (131.2 ft) and 10 m (32.8 ft), respectively.

TABLE 1—PREDICTED DISTANCES TO WHICH SOUND LEVELS ≥190, 180 AND 160 DB RE 1 μPA (RMS) MIGHT BE RECEIVED FROM TWO 45 IN³ GI AIRGUNS THAT WILL BE USED DURING THE SEISMIC SURVEYS IN THE EASTERN TROPICAL PACIFIC OCEAN DURING OCTOBER-NOVEMBER 2010

[Distances are based on model results provided by L–DEO.]

Source and volume	Tow depth (m)	Water depth	Estimated distances at received levels (m)		
			190 dB	180 dB	160 dB
Two GI airguns, 45 in³ each	2	Deep (>1000 m)	10	40	400

Description of Marine Mammals in the Area of the Specified Activity

Forty-three species of marine mammals, including 29 odontocetes, 7 mysticetes, 6 pinnipeds, and the marine sea otter (*Enhydra lutris*), are known to occur in the ETP. Of these, 23 cetacean species are likely to occur in the proposed survey areas in the ETP during October–November (*see* Table 2 in this document), and are considered further here. Three of these 23 cetacean species are listed under the Endangered Species Act (ESA) as Endangered: The sperm (*Physeter macrocephalus*), humpback (*Megaptera novaeangliae*), and blue (*Balaenoptera musculus*) whales.

Nine cetacean species, although present in the wider ETP, likely would not be found in the proposed seismic survey areas because their ranges do not extend that far south or north. Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) and Baird's beaked whales (*Berardius bairdii*) are seen very occasionally in the northernmost portions of the ETP (Ferguson and Barlow, 2001). Long-beaked common dolphins (*Delphinus capensis*) are known to occur in the northernmost areas of the ETP off Baja California, Mexico, and off the coast of Peru (Heyning and Perrin, 1994). Southern right whales (*Eubalaena australis*) are seen on rare occasions off the coasts of Peru and Chile (Aguayo *et al.,* 1992; Santillan *et al.,* 2004). Gray's beaked whales (*Mesoplodon grayi*) are distributed in the southernmost portions of the ETP and off the coast of southern Peru (Culik, 2010). Dusky dolphins (*Lagenorhynchus obscurus*), southern right whale dolphins (*Lissodelphis peronii*), Burmeister's porpoises (*Phocoena spinipinnis*), and long-finned pilot whales (*Globicephala melas*) also occur near the Peruvian coast (Leatherwood *et al.,* 1991; Van Waerebeek *et al.,* 1991; Brownell and Clapham, 1999; Olson and Reilly, 2002). These nine species are not addressed in detail in SIO's application and are not considered further in this Notice of Proposed IHA.

Sei (*Balaenoptera borealis*) and fin (*B. physalus*) whales, listed as Endangered under the ESA, are known from the ETP but are considered very rare in the proposed survey area. Sei whales may have been sighted during surveys in the ETP (Wade and Gerrodette, 1993; Kinzey *et al.,* 1999, 2000, 2001); however, it is difficult to distinguish sei whales from Bryde's whales (*B. edeni*) at sea. Because sei whales generally have a more northerly and temperate distribution (Leatherwood *et al.,* 1988), Wade and Gerrodette (1993) classified

any tentative sei whale observations in the ETP as Bryde's whale sightings. Sei whales may also have been sighted near the Galapagos Islands (Clarke, 1962); although, Clarke and Aguayo (1965) suggested that those sightings could have been Bryde's whales. Although the occurrence of sei whales is documented off Costa Rica (Rodriguez-Herrera *et al.,* 2002), the reliability of the identification is uncertain. Neither Ferguson and Barlow (2001) or Jackson *et al.* (2008) positively identified sei whales in or near the proposed project area during surveys conducted during July–December. Similarly, Rasmussen *et al.* (2004) did not report sei whales in 8 years of surveys off Costa Rica or Panama. No sei whales were detected during L–DEO seismic surveys off Costa Rica or Nicaragua in November–December 2004 or February–March 2008 (Holst *et al.,* 2005b; Holst and Smultea, 2008), in the Hess Deep approximately 1100 km (683.5 mi) west of the Galapagos Islands in July 2003 (Smultea and Holst, 2003), or 1600–1950 km (994.2–1211.7 mi) west of the proposed survey area in April–August 2008 (Hauser *et al.,* 2008).

No confirmed fin whale sightings were made in the proposed study area during 10 years of survey effort in July–December by Ferguson and Barlow (2001) or by Jackson *et al.* (2008) during July–December surveys in 2006. Despite >30 years of NMFS and other surveys, as well as stranding records from the Pacific coast of Costa Rica, there have been no confirmed records of fin whales (May-Collado *et al.,* 2005). A possible sighting of a fin whale in this region occurred off the Osa Peninsula in 1997; however, the sighting was not confirmed (May-Collado *et al.,* 2005), although Rodriguez-Herrera *et al.* (2002) list the fin whale as having been documented off Costa Rica. No fin whales were detected during L–DEO seismic surveys off Costa Rica or Nicaragua in November–December 2004 or February–March 2008 (Holst *et al.,* 2005b; Holst and Smultea, 2008), in the Hess Deep approximately 1100 km (683.5 mi) west of the Galapagos Islands in July 2003 (Smultea and Holst, 2003), or 1600–1950 km (994.2–1211.7 mi) west of the proposed survey area in April–August 2008 (Hauser *et al.,* 2008). Sei and fin whales are not considered further in this document.

The general distribution of minke whales (*Balaenoptera acutorostrata*) includes the offshore waters of the study area (Reeves *et al.,* 2002). However, minke whales are likely to be rare in the survey area. This species has been found off the coast of Costa Rica on occasion (Rodriguez-Herrera *et al.,* 2002). No minke whales were found in the proposed project region during July–December surveys during 1986–1996 by Ferguson and Barlow (2001) or in 2006 by Jackson *et al.* (2008). Rasmussen *et al.* (2004) did not report seeing any minke whales in 8 years of surveys (1996–2003) off Costa Rica or in 2001–2003 off Panama. May-Collado *et al.* (2005) also did not report any minkes based on compiled sightings off Costa Rica during 1979–2001, nor have minkes been reported among compiled strandings off Costa Rica (Rodriguez-Fonseca and Cubero-Pardo, 2001). Minke whales are unlikely to occur in the planned survey areas and are not considered further in this document.

Longman's beaked whale (*Indopacetus pacificus*), also known as the tropical bottlenose whale, is considered rare in the ETP. Although widespread throughout the tropical Pacific, the species is considered rare because of a scarcity of sightings despite a great deal of survey effort (Pitman *et al.,* 1999). In the ETP, most tropical bottlenose whale sightings have been made between 3–10° N (Pitman *et al.,* 1999). Kinzey *et al.* (2001) reported one sighting of *I. pacificus* in the ETP at about 135° W. Jackson *et al.* (2008) also reported *I. pacificus* in the ETP well to the west of the proposed study area. No Longman's beaked whales were reported by May-Collado *et al.* (2005) based on compiled sightings off Costa Rica from 1979–2001. The species is very rare in the study area and is not considered further in this document.

Dwarf (*Kogia sima*) and pygmy (*K. breviceps*) sperm whales may occur in the proposed survey area, although dwarf sperm whales are likely to be very rare and pygmy sperm whales are likely to be rare. No *Kogia* sp. were detected during L–DEO seismic surveys off Costa Rica and Nicaragua in November–December 2004 (Holst *et al.,* 2005b) or in the Hess Deep approximately 1100 km (683.5 mi) west of the Galapagos Islands in July 2003 (Smultea and Holst, 2003). One sighting of a dwarf sperm whale and one sighting of two pygmy sperm whales were observed off the coast of Costa Rica in waters approximately 2000 m (6561.7 ft) and 3500 m (11482.9 ft) deep, respectively, during an L–DEO seismic survey off Costa Rica and Nicaragua in February–March 2008 (Holst and Smultea, 2008), and one unidentified *Kogia* sp. was sighted during L–DEO seismic surveys 1600–1950 km (994.2–1211.7 mi) west of the proposed survey area in April–August 2008 (Hauser *et al.,* 2008). Due to the rarity of these species, no take has been requested and none will be authorized.

Six species of pinnipeds are known to occur in the ETP: The Guadalupe fur seal (*Arctocephalus townsendi*), California sea lion (*Zalophus californianus*), Galapagos sea lion (*Z. wollebaeki*), Galapagos fur seal (*A. galapagoensis*), southern sea lion (*Otaria flavescens*), and the South American fur seal (*A. australis*). Ranges of the first two are substantially north of the proposed seismic survey areas, and the last four species are not expected to occur in the offshore waters of the study areas. The marine sea otter, which is managed by the U.S. Fish and Wildlife Service, is a coastal species and does not occur in offshore waters. Pinnipeds are highly unlikely to occur in the survey area and are not considered in further detail here.

The ETP is a biologically productive area that supports a variety of cetacean species (Au and Perryman, 1985). Several studies of marine mammal distribution and abundance have been conducted in the wider ETP. The most extensive regional distribution and abundance data that encompass the study area come primarily from multi-year vessel surveys conducted in the wider ETP by the NMFS Southwest Fisheries Science Center (SWFSC). Information on the distribution of cetaceans inhabiting the ETP has been summarized in several studies (Polacheck, 1987; Wade and Gerrodette, 1993; Ferguson and Barlow, 2001; Gerrodette *et al.,* 2008). However, for some species, abundance in the proposed seismic survey area could be quite different from that of the wider ETP, depending on local oceanographic variability.

In addition, procedures used during the various surveys that are cited have differed somewhat, and those differences could affect the results. For example, Ferguson and Barlow (2001) calculated cetacean densities in the ETP based on summer/fall research surveys in 1986–1996. Their densities are corrected for both changes in detectability of species with distance from the survey track line and for perception and availability bias. Gerrodette *et al.* (2008) calculated dolphin abundance in the ETP based on summer/fall research surveys in 1986–1990, 1998–2000, 2003, and 2006. Their estimates are corrected for the former but not the latter.

Additional sighting records are available from recent surveys in the ETP. Jackson *et al.* (2008) described cetacean sightings data collected during a survey from July 28–December 7, 2006. The survey area extended from 30° N–18° S from the coastline to 153° W, overlapping with the proposed

seismic survey area. Rasmussen *et al.* (2004) and Calambokidis *et al.* (2010) described cetacean sightings resulting from humpback whale surveys off Costa Rica and surrounding waters from January to March in 1996–2003 and 2010. Recent at-sea monitoring for L–DEO in the ETP also provided sighting records for cetaceans during seismic programs. Seismic monitoring programs took place at the Hess Deep in July 2003, approximately 1100 km (683.5 mi) west of the Galapagos Islands (Smultea and Holst, 2003); from Costa Rica to El Salvador in November–December 2004, mainly within approximately 100 km (62.1 mi) of the coast in water depths extending to 5000 m (16,404.2 ft) (Holst *et al.,* 2005b); from Costa Rica to Nicaragua in March–April 2008, up to approximately 200 km (124.3 mi) from the coast in water depths extending to 5000 m (Holst and Smultea, 2008); and approximately 1600–1900 km (994.2–1,180.6 mi) west of the study area in April–August 2008 (Hauser *et al.,* 2008).

Information on the occurrence, distribution, population size, and conservation status for each of the 23 cetacean species that may occur in the proposed project area during October–November is presented in Table 2 in this document. The five species of marine mammals expected to be most common in the waters of the project area, all delphinids, include the short beaked common dolphin (*Delphinus delphis*), pantropical spotted dolphin (*Stenella attenuata*), bottlenose dolphin (*Tursiops truncatus*), Risso's dolphin (*Grampus griseus*), and short-finned pilot whale (*Globicephala macrorhynchus*). Additional information regarding the abundance and distribution, population status, and life history and behavior of these species expected to be found in the project area and how the estimated densities were calculated may be found in SIO's application. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the proposed IHA. Please refer to the application for that information (*see* **ADDRESSES**). Additional information can also be found in the NMFS Stock Assessment Report (SAR). The Pacific 2009 SAR is available at: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2009.pdf.*

TABLE 2—THE OCCURRENCE, HABITAT, REGIONAL ABUNDANCE, CONSERVATION STATUS, AND BEST AND MAXIMUM DENSITY ESTIMATES FOR MARINE MAMMALS IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE EASTERN TROPICAL PACIFIC OCEAN. CETACEAN DENSITIES ARE BASED ON NMFS SWFSC SHIP TRANSECT SURVEYS CONDUCTED IN 1986–2006 FROM PREDICTIVE MODELING (BARLOW ET AL. 2009; READ ET AL. 2009) OR IN 1986–1996 FROM FERGUSON AND BARLOW (2003)

[*See* text and Tables 2–4 in SIO's application for further detail.]

Species	Occurrence in survey area during Oct–Nov	Habitat	Regional population size [1]	ESA [2]	Density (best) [3]	Density (max) [4]
Mysticetes:						
Bryde's Whale, (*Balaenoptera edeni*)	Uncommon	Pelagic and coastal	13,000 [5]	NL	0.53	1.15
Blue whale, (*Balaenoptera musculus*)	Uncommon	Pelagic and coastal	1415 [6]	EN	0.13	0.23
Humpback whale, (*Megaptera novaeangliae*).	Uncommon	Mainly nearshore waters and banks.	NE Pacific 1392 [13]; SE Pacific 2900 [14].	EN	[15] 0.1	[15] 0.2
Odontocetes:						
Sperm whale, (*Physeter macrocephalus*).	Common	Usually deep pelagic, steep topography.	26,053 [7]	EN	3.95	15.20
Pygmy sperm whale, (*Kogia breviceps*)	Rare	Deep waters off shelf.	NA [8]	NL	[16] 0.01	[16] 0.02
Dwarf sperm whale, (*Kogia sima*)	Very rare	Deep waters off shelf.	11,200 [9]	NL	[16] 0.01	[16] 0.02
Cuvier's beaked whale, (*Ziphius cavirostris*).	Common	Slope and pelagic	20,000 [6]	NL	1.83	3.70
Blainville's beaked whale, (*Mesoplodon densirostris*).	Uncommon	Pelagic	25,300 [10]	NL	[17] 0.21	[17] 0.37
Pygmy beaked whale, (*Mesoplodon peruvianus*).	Uncommon	Pelagic	25,300 [10]	NL	[17] 0.21	[17] 0.37
Gingko-toothed beaked whale, (*Mesoplodon stejnegeri*).	Very rare	Pelagic	25,300 [10]	NL	[17] 0.21	[17] 0.37
Bottlenose dolphin, (*Tursiops truncatus*).	Very common	Coastal, shelf, pelagic.	335,834	NL	15.14	23.09
Rough-toothed dolphin, (*Steno bredanensis*).	Common	Mainly pelagic	107,633	NL	1.60	2.34
Short-beaked common dolphin, (*Delphinus delphis*).	Very common	Shelf, pelagic, high relief.	3,127,203	NL	143.21	242.80
Pantropical spotted dolphin, (*Stenella attenuata*).	Very common	Coastal and pelagic	857,884	NL	12.43	22.53
Risso's dolphin, (*Grampus griseus*)	Very common	Shelf, slope, seamounts.	110,457	NL	10.21	37.40
Spinner dolphin, (*Stenella longirostris*)	Very common	Coastal and pelagic	1,797,716	NL	3.81	5.74
Striped dolphin, (*Stenella coeruleoalba*)	Very common	Off continental shelf	964,362	NL	35.23	53.67
Fraser's dolphin, (*Lagenodelphis hosei*)	Common	Pelagic	289,300 [6]	NL	1.03	5.60
Melon-headed whale, (*Peponocephala electra*).	Common	Pelagic	45,400 [6]	NL	2.80	9.30
Pygmy killer whale, (*Feresa attenuata*)	Uncommon	Pelagic	38,900 [6]	NL	0.60	1.80
False killer whale, (*Pseudorca crassidens*).	Uncommon	Pelagic	39,800 [6]	NL	0.39	2.10
Killer whale, (*Orcinus orca*)	Uncommon	Widely distributed	8,500 [11]	NL	0.85	4.00

TABLE 2—THE OCCURRENCE, HABITAT, REGIONAL ABUNDANCE, CONSERVATION STATUS, AND BEST AND MAXIMUM DENSITY ESTIMATES FOR MARINE MAMMALS IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE EASTERN TROPICAL PACIFIC OCEAN. CETACEAN DENSITIES ARE BASED ON NMFS SWFSC SHIP TRANSECT SURVEYS CONDUCTED IN 1986–2006 FROM PREDICTIVE MODELING (BARLOW ET AL. 2009; READ ET AL. 2009) OR IN 1986–1996 FROM FERGUSON AND BARLOW (2003)—Continued

[*See* text and Tables 2–4 in SIO's application for further detail.]

Species	Occurrence in survey area during Oct–Nov	Habitat	Regional population size [1]	ESA [2]	Density (best) [3]	Density (max) [4]
Short-finned pilot whale, (*Globicephala macrorhynchus*).	Common	Mostly pelagic, high-relief.	589,315 [12]	NL	6.29	11.74

NA—Data not available or species status was not assessed. For density estimates, NA indicates that estimates would be lower than the lowest estimate in this table.
[1] Abundance from Gerrodette *et al.* (2008) unless otherwise stated.
[2] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.
[3] Best density (#/1000km^2) estimate as listed in Table 3 of the application. Cetecean densities are based on NMFS SWFSC ship transect surveys conducted in 1986–2006 from predictive modeling (Barlow *et al.* 2009; Read *et al.* 2009) or in 1986–1996 from Ferguson and Barlow (2003).
[4] Maximum density (#/1000km^2) estimate as listed in Table 3 of the application.
[5] This estimate is mainly for *Balaenoptera edeni* but may include some *B. borealis.*
[6] ETP (Wade and Gerrodette 1993).
[7] Eastern temperate North Pacific (Whitehead 2002).
[8] California/Oregon/Washington (Carretta *et al.* 2010).
[9] This abundance estimate is mostly for *Kogia sima* but may also include some *K. breviceps.* Density estimates for *Kogia* spp. combined.
[10] Estimates for population size and for density include all species of the genus *Mesoplodon* in the ETP (Ferguson and Barlow 2001).
[11] ETP (Ford 2002).
[12] This estimate is for *Globicephala macrorhynchus* and *G. melas* in the ETP (Gerrodette and Forcada 2002).
[13] U.S. west coast (Carretta *et al.* 2010).
[14] Southeast Pacific; Felix *et al.* (2005).
[15] Approximate estimates.
[16] Density estimates are combined for pygmy and dwarf sperm whales.
[17] Density estimates are combined for species of the genus *Mesoplodon.*

Marine Mammal Hearing

The primary effect on marine mammals anticipated from the specified activities will result from exposure of animals to underwater sound. Exposure to sound can affect marine mammal hearing. When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data, Southall *et al.* (2007) designate "functional hearing groups" for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 22 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (six species of true porpoises, four species of river dolphins, two members of the genus *Kogia,* and four dolphin species of the genus *Cephalorhynchus*): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz and 75 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.

As mentioned previously in this document, 21 cetacean species are likely to occur in the proposed survey area. Of the 21 species likely to occur in SIO's project area, two are classified as low frequency cetaceans (Bryde's, humpback, and blue whales) and 18 are classified as mid-frequency cetaceans (sperm, Cuvier's beaked, Blainville's beaked, pygmy beaked, gingko-toothed beaked, melon-headed, pygmy killer, false killer, killer, and short-finned pilot whales and rough-toothed, bottlenose, pantropical spotted, spinner, striped, Fraser's, short-beaked common, and Risso's dolphins) (Southall *et al.,* 2007).

Potential Effects of the Specified Activity on Marine Mammals

Potential Effects of Airguns

The effects of sounds from airguns might result in one or more of the following: Tolerance, masking of natural sounds, behavioral disturbances, temporary or permanent hearing impairment, and non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). Permanent hearing impairment, or PTS, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). It is unlikely that the project would result in any cases of temporary or especially permanent hearing impairment or any significant non-auditory physical or physiological effects for reasons discussed later in this document. Some behavioral disturbance is expected, but it is expected that this would be localized and short-term because of the short amount of time that would be spent at any particular site within the survey area (approximately two days of seismic data acquisition at any one site).

(1) Tolerance

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at

distances of many kilometers. For a brief summary of the characteristics of airgun pulses, *see* Appendix A(3) of the supporting EA (*see* **ADDRESSES**). However, it should be noted that most of the measurements are for airguns that would be detectable considerably farther away than the GI airgun planned for use in the present project.

Several studies have shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response; *see* Appendix A(5) of the EA. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of the mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times, mammals of all three types have shown no overt reactions. In general, pinnipeds usually seem to be more tolerant of exposure to airgun pulses than are cetaceans, with the relative responsiveness of baleen and toothed whales being variable. Given the relatively small and low-energy GI airgun source planned for use in this project, mammals are expected to tolerate being closer to this source than would be the case for a larger airgun source typical of most seismic surveys.

(2) Masking

Obscuring of sounds of interest by interfering sounds, generally at similar frequencies, is known as masking. Masking effects of pulsed sounds (even from large arrays of airguns, much larger than that proposed for use in this survey) on marine mammal calls and other natural sounds are expected to be limited, although there are few specific data of relevance. Because of the intermittent nature and low duty cycle of seismic pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, multi-path arrivals and reverberation cause airgun sound to arrive for much or all of the interval between pulses (Simard *et al.,* 2005; Clark and Gagnon, 2006), which could mask calls. Whale calls often can be heard between the seismic pulses (Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999a,b; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a,b, 2006; Dunn and Hernandez, 2009), and certain baleen and toothed whales are known to continue calling in the presence of seismic pulses. However, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies found that sperm whales continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; Jochens *et al.,* 2008). Given the small source planned for use during the proposed survey, there is even less potential for masking of baleen or sperm whale calls during the present study than in most seismic surveys. Masking effects of seismic pulses are expected to be negligible in the case of small odontocetes, given the intermittent nature of seismic pulses. Dolphins and porpoises commonly are heard calling while airguns are operating (Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a,b; Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking. In general, masking effects of seismic pulses are expected to be minor, given the normally intermittent nature of seismic pulses. Masking effects on marine mammals are discussed further in Appendix A(4) of the EA.

(3) Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). If a marine mammal responds to an underwater sound by changing its behavior or moving a small distance, the response may or may not rise to the level of "taking", or affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. This practice potentially overestimates the numbers of marine mammals that are affected in some biologically-important manner.

The sound exposure thresholds that are used to estimate how many marine mammals might be harassed by a seismic survey are based on behavioral observations during studies of several species. However, information is lacking for many species. Detailed studies have been done on humpback, gray (*Eschrichtius robustus*), bowhead (*Balaena mysticetus*), and sperm whales, and on ringed seals (*Phoca hispida*). Less detailed data are available for some other species of baleen whales, small toothed whales, and sea otters, but for many species there are no data on responses to marine seismic surveys. Most of those studies have concerned reactions to much larger airgun sources than planned for use in the proposed SIO project. Thus, effects are expected to be limited to considerably smaller distances and shorter periods of exposure in the present project than in most of the previous work concerning marine mammal reactions to airguns.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable. Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in Appendix A(5) of the EA, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route (Richardson *et al.,* 1999) and/or interrupting their feeding activities and moving away from the sound source. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals. They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors (Schick and Urban, 2000; Richardson *et al.,* 1999; Malme *et al.,* 1983).

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of pulses in the 160–170 dB re 1 μPa (rms) range seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Richardson *et al.,* 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4.5–14.5 km (2.8–9 mi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong

disturbance reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies summarized in Appendix A(5) of the EA have shown that some species of baleen whales, notably bowhead and humpback whales, at times show strong avoidance at received levels lower than 160–170 dB re 1 μPa (rms). Reaction distances would be considerably smaller during the proposed project, for which the 160 dB radius is predicted to be 400 m (1312.3 ft) (*see* Table 1 in this document), as compared with several kilometers when a large array of airguns is operating.

Responses of humpback whales to seismic surveys have been studied during migration, on summer feeding grounds, and on Angolan winter breeding grounds; there has also been discussion of effects on the Brazilian wintering grounds. McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off Western Australia to a full-scale seismic survey with a 16-airgun, 2678-in^3 array, and to a single 20-in^3 airgun with a source level of 227 dB re 1 μPa-m peak-to-peak. McCauley *et al.* (1998) documented that initial avoidance reactions began at 5–8 km (3.1–5 mi) from the array, and that those reactions kept most pods approximately 3–4 km (1.9–2.5 mi) from the operating seismic boat. McCauley *et al.* (2000a) noted localized displacement during migration of 4–5 km (2.5–3.1 mi) by traveling pods and 7–12 km (4.3–7.5 mi) by cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of received sound levels. The mean received level for initial avoidance reactions to an approaching airgun was 140 dB re 1 μPa (rms) for humpback whale pods containing females. The standoff range, *i.e.,* the mean closest point of approach of the whales to the airgun, corresponded to a received level of 143 dB re 1 μPa (rms). The initial avoidance response generally occurred at distances of 5–8 km (3.1–5.0 mi) from the airgun array and 2 km (1.2 mi) from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100–400 m (328.1–1312.3 ft), where the maximum received level was 179 dB re 1 μPa (rms).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 100-in^3 airgun (Malme *et al.,* 1985). Some humpbacks seemed "startled" at received levels of 150–169 dB re 1 μPa on an (approximate) rms basis. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 re 1 μPa on an (approximate) rms basis.

It has been suggested that South Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.,* 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.,* 2006), or with results from direct studies of humpback whales exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was "no observable direct correlation" between strandings and seismic surveys (IWC 2007).

Studies of bowhead whales show that their responsiveness can be quite variable depending on the activity (*e.g.,* migrating vs. feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20–30 km (12.4–18.6 mi) from a medium-sized airgun source at received sound levels of around 120–130 dB re 1 μPa (rms) (Miller *et al.,* 1999; Richardson *et al.,* 1999; *see also* Appendix A (5) of the EA). However, more recent research on bowhead whales (Miller *et al.,* 2005; Harris *et al.,* 2007) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. Nonetheless, subtle but statistically significant changes in surfacing-respiration-dive cycles were evident upon statistical analysis (Richardson *et al.,* 1986). In summer, bowheads typically begin to show avoidance reactions at received levels of about 152–178 dB re 1 μPa (rms) (Richardson *et al.,* 1986, 1995; Ljungblad *et al.,* 1988; Miller *et al.,* 2005).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding Eastern Pacific gray whales to pulses from a single 100-in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales ceased feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μPa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.,* 1984; Malme and Miles, 1985) and with observations of Western Pacific gray whales feeding off Sakhalin Island, Russia, when a seismic survey was underway just offshore of their feeding area (Wursig *et al.,* 1999; Gailey *et al.,* 2007; Johnson *et al.,* 2007; Yazvenko *et al.,* 2007a,b), along with data on gray whales off British Columbia (Bain and Williams, 2006). Gray whales typically show no conspicuous responses to airgun pulses with received levels up to 150 to 160 dB re 1 μPa (rms), but are increasingly likely to show avoidance as received levels increase above that range. While neither bowhead nor gray whales are present in the study area, these studies can be used to draw general inference about the potential reactions of other baleen whales to underwater sound.

Various species of the genus *Balaenoptera* (*e.g.,* blue, sei, fin, Bryde's, and minke whales) have occasionally been reported in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (McDonald *et al.,* 1995; Dunn and Hernandez, 2009). Sightings by observers on seismic vessels off the United Kingdom from 1997–2000 suggest that, at times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting and not shooting (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). In a study off Nova Scotia, Moulton and Miller (2005) found little difference in sighting rates (after accounting for water depth) and initial sighting distances of balaenopterid whales when airguns were operating vs. silent. However, there were indications that these whales were more likely to be moving away when seen during airgun operations. Similarly, ship-based monitoring studies of blue, fin, sei, and minke whales offshore of Newfoundland (Orphan Basin and Laurentian Sub-basin) found no more than small differences in sighting rates and swim direction during seismic vs. non-seismic periods (Moulton *et al.,* 2005, 2006a,b).

Data on short-term reactions, or lack thereof, by cetaceans to impulsive noises do not necessarily provide information about long-term effects. It is

not known whether impulsive noises affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (*see* Appendix A in Malme *et al.,* 1984; Richardson *et al.,* 1995; Angliss and Allen, 2009). The Western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a prior year (Johnson *et al.,* 2007). Bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably (3.4 percent annually for nearly a decade), despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987; Angliss and Allen 2009). In any event, brief exposures to sound pulses from the proposed airgun source are highly unlikely to result in prolonged effects.

Toothed Whales—Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above have been reported for toothed whales. However, systematic studies on sperm whales have been done (Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009), and there is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (Stone 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009).

Seismic operators and PSOs on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but, in general, there seems to be a tendency for most delphinids to show some avoidance of operating seismic vessels (Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; *see also* Barkaszi *et al.,* 2009). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large airgun arrays are firing (Moulton and Miller, 2005). Nonetheless, there have been indications that small toothed whales sometimes tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (Stone and Tasker, 2006; Weir, 2008). In most cases, the avoidance radii for delphinids appear to be small, on the order of 1 km (0.62 mi) or less, and some individuals show no apparent avoidance. The beluga whale (*Delphinapterus leucas*) is a species that (at least at times) shows long-distance avoidance of seismic vessels. Aerial surveys conducted during seismic operations in the southeastern Beaufort Sea during summer recorded much lower sighting rates of beluga whales within 10–20 km (6.2–12.4 mi) compared with 20–30 km (12.4–18.6 mi) from an operating airgun array, and observers on seismic boats in that area rarely see beluga whales (Miller *et al.,* 2005; Harris *et al.,* 2007). However, beluga whales are not found in SIO's proposed project area.

Captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors.

Most studies of sperm whales exposed to airgun sounds indicate that this species shows considerable tolerance of airgun pulses (Stone, 2003; Moulton *et al.,* 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance and continue to call (*see* Appendix A of the EA for review). However, controlled exposure experiments in the Gulf of Mexico indicate that foraging effort is somewhat altered upon exposure to airgun sound (Jochens *et al.,* 2008; Miller *et al.,* 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales (Family Ziphiidae) to seismic surveys. However, northern bottlenose whales (*Hyperoodon ampullatus*) continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.,* 2005). Most beaked whales tend to avoid approaching vessels of other types (Wursig *et al.,* 1998). They may also dive for an extended period when approached by a vessel (Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.,* 2006; Tyack *et al.,* 2006). In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes, beluga whales, and harbor porpoises (Appendix A of the EA).

Additional details on the behavioral reactions (or the lack thereof) by all types of marine mammals to seismic vessels can be found in Appendix A (5) of the EA.

(4) Hearing Impairment and Other Physical Effects

Temporary (TTS) or permanent (PTS) hearing impairment is a possibility when marine mammals are exposed to very strong sounds. TTS has been demonstrated and studied in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of this for marine mammals exposed to sequences of airgun pulses.

Several aspects of the planned monitoring and mitigation measures for this project (*see* the "Proposed Mitigation" and "Proposed Monitoring and Reporting" sections later in this document) are designed to detect marine mammals occurring near the airguns to avoid exposing them to sound pulses that might, at least in theory, cause hearing impairment. In addition, many cetaceans are likely to show some avoidance of the area where received levels of airgun sound are high enough that hearing impairment could potentially occur. In those cases, the avoidance responses of the animals themselves will reduce or (most likely) avoid any possibility of hearing impairment.

Non-auditory physical effects may also occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage. It is possible that some marine mammal species (*i.e.,* beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, as discussed later in this document, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. It is especially unlikely that any

effects of these types would occur during the present project given the brief duration of exposure for any given individual and the planned monitoring and mitigation measures (*see* the "Proposed Mitigation" and "Proposed Monitoring and Reporting" sections later in this document). The following subsections discuss in somewhat more detail the possibilities of TTS, permanent threshold shift (PTS), and non-auditory physical effects.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.,* (2007). The distances from the *Melville's* airguns at which the received energy level (per pulse, flat-weighted) that would be expected to be greater than or equal to 180 dB re 1 μPa are estimated in Table 1.

Given the available data, the received level of a single seismic pulse (with no frequency weighting) might need to be approximately 186 dB re 1 μPa^2-s (*i.e.,* 186 dB sound exposure level (SEL) or approximately 221–226 dB pk-pk) in order to produce brief, mild TTS. Exposure to several strong seismic pulses that each have received levels near 190 dB re 1 μPa (rms) (175–180 dB SEL) might result in cumulative exposure of approximately 186 dB SEL and thus slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy. Levels ≥190 dB re 1 μPa (rms) are expected to be restricted to radii no more than 15 m (49.2 ft) from the *Melville's* GI airguns. For an odontocete closer to the surface, the maximum radius with ≥190 dB re 1 μPa (rms) would be smaller.

The above TTS information for odontocetes is derived from studies on the bottlenose dolphin and beluga whale. There is not published TTS information for other species of cetaceans. However, preliminary evidence from a harbor porpoise exposed to airgun sound suggests that its TTS threshold may have been lower (Lucke *et al.,* 2009).

For baleen whales, there are no data, direct or indirect, on levels or properties for any sound source required to induce TTS. The frequencies to which baleen whales are most sensitive are lower than those for odontocetes, and natural background noise levels at those low frequencies tend to be higher. Marine mammals can hear sounds at varying frequency levels. However, sounds that are produced in the frequency range at which an animal hears the best do not need to be as loud as sounds in less functional frequencies to be detected by the animal. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004), meaning that baleen whales require sounds to be louder (*i.e.,* higher dB levels) than odontocetes in the frequency ranges at which each group hears the best. From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales (Southall *et al.,* 2007). Since current NMFS practice assumes the same thresholds for the onset of hearing impairment in both odontocetes and mysticetes, the threshold is likely conservative for mysticetes. In any event, no cases of TTS are expected given two considerations: (1) The small size of the GI airgun source (a total discharge volume of approximately 90 in^3 as opposed to arrays of much larger volumes up to 6,600 in^3); and (2) the strong likelihood that baleen whales would avoid the approaching airguns (*i.e.,* the vessel) before being exposed to levels high enough for TTS to possibly occur (as discussed previously in this document).

As noted above, most cetacean species tend to avoid operating airguns, although not all individuals do so. In addition, ramping up airgun arrays, which is standard operational protocol for large airgun arrays and proposed for the much smaller airgun array for this action, should allow cetaceans to move away from the seismic source and avoid being exposed to the full acoustic output of the airgun array. Even with a large airgun array, it is unlikely that the cetaceans would be exposed to airgun pulses at a sufficiently high level for a sufficiently long period to cause more than mild TTS, given the relative movement of the vessel and the marine mammal. The potential for TTS is much lower in this project because of the much smaller airgun array proposed to be used. With a large array of airguns, TTS would be most likely in any odontocetes that bow-ride or otherwise linger near the airguns. While bow-riding, odontocetes would be at or above the surface, and thus not exposed to strong pulses given the pressure-release effect at the surface. However, bow-riding animals generally dive below the surface intermittently. If they did so while bow-riding near airguns, they would be exposed to strong sound pulses, possibly repeatedly. If some cetaceans did incur TTS through exposure to airgun sounds, this would very likely be mild, temporary, and reversible.

To avoid the potential for injury, NMFS has determined that cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 μPa (rms). As summarized above, data that are now available imply that TTS is unlikely to occur unless odontocetes (and probably mysticetes as well) are exposed to airgun pulses stronger than 180 dB re 1 μPa (rms).

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, while in other cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (Richardson *et al.,* 1995, Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time (*see* Appendix A (6) of the EA). Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis and probably > 6 dB (Southall *et al.,* 2007). On an SEL basis, Southall *et al.,*

(2007) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, Southall *et al.* estimate that the PTS threshold might be an M-weighted SEL (for the sequence of received pulses) of approximately 198 dB re 1 μPa^2-s (15 dB higher than the TTS threshold for an impulse).

Southall *et al.* (2007) also note that, regardless of the SEL, there is concern about the possibility of PTS if a cetacean or pinniped receives one or more pulses with peak pressure exceeding 230 or 218 dB re 1 μPa (peak), respectively. A peak pressure of 230 dB re 1 μPa (3.2 bar -m, 0-pk) would only be found within a meter from a GI gun, which has a peak pressure of 224.6 dB re 1μPa-m. A peak pressure of 218 dB re 1 μPa could be received somewhat farther away; to estimate that specific distance, one would need to apply a model that accurately calculates peak pressures in the near-field around an array of airguns. However, no pinnipeds are expected in the proposed survey areas.

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. However, resonance (Gentry 2002) and direct noise-induced bubble formation (Crum *et al.,* 2005) are not expected in the case of an impulsive source like an airgun array. If seismic surveys disrupt diving patterns of deep diving species, this might perhaps result in bubble formation and a form of "the bends," as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, little is known about the potential for seismic survey sounds to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes, and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

(5) Strandings and Mortality

Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and their auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). However, explosives are no longer used for marine seismic research or commercial seismic surveys and have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause injury, death, or stranding even in the case of large airgun arrays. However, the association of mass strandings of beaked whales with naval exercises and, in one case, an L–DEO seismic survey (Malakoff, 2002; Cox *et al.,* 2006) has raised the possibility that beaked whales exposed to strong "pulsed" sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (Hildebrand, 2005; Southall *et al.,* 2007). Appendix A (6) of the EA provides additional details.

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include: (1) Swimming in avoidance of a sound into shallow water; (2) a change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma; (3) a physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and (4) tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues. As noted in SIO's application, some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are increasing indications that gas-bubble disease (analogous to "the bends"), induced in super-saturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. The evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.,* 2006; Southall *et al.,* 2007).

Seismic pulses and mid-frequency sonar pulses are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below 1 kHz. Typical military mid-frequency sonars operate at frequencies of 2–10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct correlation between the effects of military sonar and those of seismic surveys on marine mammals. However, evidence that sonar pulses can, in special circumstances, lead (at least indirectly) to physical damage and mortality (Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.,* 2003; Fernandez *et al.,* 2004, 2005; Hildebrand, 2005; Cox *et al.,* 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity pulsed sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.,* 2004) were not well founded based on available data (IAGC, 2004; IWC, 2007). In September 2002, there was a stranding of two Cuvier's beaked whales (*Ziphius cavirostris*) in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20-airgun, 8490-in^3 array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution when conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of (1) the high likelihood that

any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels, and (2) differences between the sound sources operated by SIO and those involved in the naval exercises associated with strandings.

Potential Effects of Other Acoustic Devices

(1) Multi-Beam Echosounder Signals

The Kongsberg EM 122 12-kHz MBES will be operated from the source vessel at some times during the planned study. Information about this equipment was provided earlier in this document. Any given mammal at depth near the trackline would be in the main beam for only one or two of the segments. Also, marine mammals that encounter the Kongsberg EM 122 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2–15 ms pulse or 100-ms chirp (or two pulses or chirps if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBES emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans generally have longer pulse durations than the Kongsberg EM 122 and are often directed close to horizontally vs. more downward for the MBES. The area of possible influence of the MBES is much smaller—a narrow band below the source vessel. The duration of exposure for a given marine mammal can be much longer for Navy sonar. During SIO's operations, the individual pulses will be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of an MBES on marine mammals are outlined below.

Marine mammal communications will not be masked appreciably by the MBES signals given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the echosounder signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.,* 1985), increased vocalizations and no dispersal by pilot whales (*Globicephala* spp.) (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21–25 kHz "whale-finding" sonar with a source level of 215 dB re 1 μPa-m, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (656.2 ft) (Frankel, 2005). When a 38-kHz echosounder and a 150-kHz acoustic Doppler current profiler were transmitting during studies in the ETP, baleen whales showed no significant responses, while spotted (*Stenella* spp.) and spinner (*Stenella longirostris*) dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1-s tonal signals at frequencies similar to those that will be emitted by the MBES used by SIO, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.,* 2000; Finneran *et al.,* 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from an MBES.

Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (*see* above). However, the MBES proposed for use by SIO is quite different than sonar used for Navy operations. Pulse duration of the MBES is very short relative to naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the MBES for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; Navy sonar often use near-horizontally directed sound. Those factors would all reduce the sound energy received from the MBES relative to that from the sonar used by the Navy.

As noted earlier in this document, animals are unlikely to be exposed to levels that would result in TTS or Level B harassment because of the shape of the beam, the duration of the signal, and the likelihood that they will be avoiding the vessel at greater horizontal distance when airguns are operating.

(2) Sub-Bottom Profiler Signals

A SBP will be operated from the source vessel during the planned study. Details about this equipment were provided earlier in this document. The SBP on the *Melville* has a maximum source level of 211 dB re 1 μPa-m. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small, and—even for an SBP more powerful than those on the *Melville*—if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS.

Marine mammal communications will not be masked appreciably by the SBP signals given their directionality and the brief period when an individual mammal is likely to be within their beams. Furthermore, in the case of most baleen whales, the SBP signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Marine mammal behavioral reactions to other pulsed sound sources were discussed previously, and responses to the SBP are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the SBPs are considerably weaker than those from the MBES. Therefore, behavioral responses are not expected unless marine mammals are within 10 m of the source, which is not expected to occur.

The source levels of the SBP are much lower than those of the airguns. It is unlikely that the SBP produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The SBP is usually operated simultaneously with other higher-power acoustic sources. Many marine mammals will move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the SBP. Because of the shape of the beams of these sources and their power, NMFS believes it unlikely that marine mammals will be exposed to either the MBES or the SBP at levels at or above those likely to cause harassment. Further, NMFS believes that the brief exposure of cetaceans to a few signals from the multi-beam bathymetric sonar

system is not likely to result in the harassment of marine mammals.

As stated above, current NMFS practice assumes that the onset of Level A harassment corresponds to 180 dB re 1 μPa (rms) for cetaceans. The precautionary nature of these criteria is discussed in Appendix A (5) of the supporting EA, including the fact that the minimum sound level necessary to cause permanent hearing impairment is higher, by a variable and generally unknown amount, than the level that induces barely-detectable TTS, and the level associated with the onset of TTS is often considered to be a level below which there is no danger of permanent damage. NMFS also assumes that cetaceans or pinnipeds exposed to levels exceeding 160 dB re 1 μPa (rms) may experience Level B (behavioral) harassment.

Potential Effects on Marine Mammal Habitat

The proposed SIO seismic survey will not result in any permanent impact to habitats used by marine mammals or to their food sources, and there will be no physical damage to any habitat. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact issue associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, as described previously.

Effects on Fish and Invertebrates

The existing body of information on the impacts of seismic survey sound on marine fish and invertebrates is very limited. Furthermore, the available information on the impacts of seismic surveys on fish and invertebrates is from studies of individuals or portions of a population; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts problematic because ultimately, the most important aspect of potential impacts relates to how exposure to seismic survey sound affects populations and their viability, including their availability to fisheries. However, there is some unpublished and very limited evidence of the potential for adverse effects on fish and invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on fish and marine invertebrates are pathological, physiological, and behavioral.

Pathological effects involve lethal and temporary or permanent sublethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (*e.g.,* startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes potentially could lead to an ultimate pathological effect on individuals (*i.e.,* mortality). The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown.

Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.,* 2001; *see also* Appendix D of the EA). More details concerning the effects of airguns on fish and invertebrates are included in SIO's application and the associated EA. In conclusion, NMFS has preliminarily determined that SIO's proposed seismic survey operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or on the food sources they utilize.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under Sections 101(a)(5)(A) and (D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Mitigation and monitoring measures proposed to be implemented for the proposed seismic survey have been developed and refined during previous SIO seismic studies and associated EAs, IHA applications, and IHAs. The mitigation and monitoring measures described herein represent a combination of procedures required by past IHAs for other similar projects and on best practices recommended in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007). The measures are described in detail below.

Mitigation measures proposed by SIO for adoption during the proposed survey include (1) visual monitoring by protected species observers (discussed later in this document), (2) establishment of an exclusion zone (EZ), (3) speed or course alteration, provided that doing so will not compromise operational safety requirements, (4) GI airgun shut down procedures, and (5) ramp-up procedures. Although power-down procedures are often standard operating practice for seismic surveys, they will not be used here because powering down from two airguns to one airgun would make only a small difference in the 180-dB safety radius. The difference is not enough to allow continued one-airgun operations if a mammal came within the safety radius for two airguns.

Exclusion Zones—As discussed previously in this document, NMFS has determined that for acoustic effects, using acoustic thresholds in combination with corresponding safety radii is an effective way to consistently apply measures to avoid or minimize the impacts of an action. Thresholds are used to establish a mitigation shut-down, or exclusion, zone, *i.e.,* if an animal enters an area calculated to be ensonified above the level of an established threshold, a sound source is shut down.

As a matter of past practice and based on the best available information at the time regarding the effects of marine sound, NMFS estimates that Level A harassment from acoustic sources may occur when cetaceans are exposed to levels above 180 dB re 1 μPa (rms) level. NMFS also considers 160 dB re 1 μPa (rms) as the criterion for estimating the onset of Level B harassment from acoustic sources producing impulse sounds, as in this seismic survey.

Empirical data concerning the 180- and 160-dB distances have been acquired based on measurements during the acoustic verification study conducted by L–DEO in the northern Gulf of Mexico from May 27–June 3, 2003 (Tolstoy *et al.,* 2004). The empirical data indicate that, for this survey, the assumed 180- and 160-dB radii are 40 m (131.2 ft) and 400 m (1312.3 ft), respectively (*see* Table 1 in this document).

Speed or Course Alteration—If a marine mammal is detected outside the EZ but is likely to enter it based on relative movement of the vessel and the animal, and if safety and scientific objectives allow, the vessel speed and/

or course will be adjusted to minimize the likelihood of the animal entering the EZ. In the event that safety and/or scientific objectives do not allow for alteration of speed and/or course as a needed mitigation measure, shut-down procedures will still be utilized (*see* below). Major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays but are possible in this case because only a small source and short streamers will be used.

Shut-down Procedures—If a marine mammal is detected by PSOs outside the EZ but is likely to enter the EZ, and if the vessel's speed and/or course cannot be changed to avoid having the animal enter the EZ, the airgun array, MBES, and SBP will be shut down before the animal is within the EZ. Likewise, if a marine mammal is already within the EZ when first detected, the airgun array, MBES, and SBP will be shut down immediately. Following a shut down, seismic activity will not resume until the marine mammal has cleared the EZ. The animal will be considered to have cleared the EZ if it (a) is visually observed to have left the EZ, or (b) has not been seen within the EZ for 15 min in the case of small odontocetes, or has not been seen within the EZ for 30 min in the case of mysticetes and large odontocetes, including sperm and beaked whales.

Ramp-up Procedures—A ramp-up procedure will be followed when the GI airguns begin operating after a specified period without GI airgun operations. It is proposed that, for the present cruise, this period would be approximately 1–2 min. This period is based on the 180-dB radii for the GI airguns (*see* Table 1 in this document) in relation to the planned speed of the *Melville* while shooting. Ramp-up will begin with a single GI airgun (45 in^3). The second GI airgun (45 in^3) will be added after 5 min. During ramp up, the PSOs will monitor the exclusion zone, and, if marine mammals are sighted, a shut-down will be implemented as though both GI airguns were operational.

If the complete EZ has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, ramp-up will not commence. If one GI airgun has operated, ramp-up to full power will be permissible at night or in poor visibility on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single GI airgun and could move away if they choose. A ramp-up from a shut-down may occur at night, but only when the entire EZ is visible, and it has been determined from the pre-ramp up watch that the EZ is clear of marine mammals. Ramp-up of the GI airguns will not be initiated if a marine mammal is sighted within or near the applicable EZ during day or night.

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking". The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

SIO proposes to sponsor marine mammal monitoring during the present project in order to implement the proposed mitigation measures that require real-time monitoring and to satisfy the anticipated monitoring requirements of the IHA. SIO's proposed Monitoring Plan is described next. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. SIO is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-based Visual Monitoring

Three protected species observers (PSOs) will be based aboard the seismic source vessel for the duration of the cruise and will watch for marine mammals near the vessel during daytime airgun operations and during start-up of airguns at any time. Watches will be conducted by at least one observer 100% of the time during seismic surveys in daylight hours. Daylight observation by at least one observer will continue during non-seismic periods, as long as weather conditions make observations meaningful, for comparison of sighting rates and animal behavior during periods with vs. without airgun operations. PSOs will be appointed by SIO with NMFS concurrence after a review of their qualifications.

The *Melville* is a suitable platform for marine mammal observations. The observer platform is located one deck below and forward of the bridge (12.46 meters (40.88 ft) above the waterline), affording a relatively unobstructed 180-degree forward view. Aft views can be obtained along the port and starboard decks. During daytime hours, the observer(s) will scan the area systematically using reticulated 25x150 big-eye binoculars and 7x50 hand-held binoculars to determine bearing and distance of sightings. A clinometer is used to determine distances of animals in close proximity to the vessel. Hand-held fixed rangefinders and distance marks on the ship's side rails are used to measure the exact location of the safety zone. Laser rangefinders, which have proven to be less reliable for open water sighting, are also provided. During darkness, night-vision equipment will be available. The PSOs will be in wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or GI airgun shut down.

Before commencing seismic operations during daylight hours, two observers will maintain a 360-degree watch for all marine mammals for at least 30 minutes prior to the start of seismic operations after an extended shutdown of the airguns (1–2 minutes, depending on vessel speed). If no marine mammals are observed within the EZ during this time, the observers will notify the seismic personnel of an "all clear" status. Watch periods are scheduled as a 2-hour rotation. The

observers continually scan the water from the horizon to the ship's hull, and forward of 90 degrees from the port and starboard beams. Based on PSO observations, the GI airgun will be shut down (as described earlier in this document) when marine mammals are detected within or about to enter a designated EZ that corresponds to the 180-dB re 1 μPa (rms) isopleths. The PSOs will continue to maintain watch to determine when the animal(s) are outside the EZ, and airgun operations will not resume until the animal has left that EZ. The predicted distance for the 180-dB EZ is listed in Table 1 earlier in this document. Seismic operations will resume only after the animals are seen to exit the safety radius or after no further visual detection of the animal for 15 minutes (for small odontocetes and pinnipeds) or 30 minutes (for mysticetes and large odontocetes, including beaked whales).

The bridge officers and other crew will be instructed to alert the observer on watch of any suspected marine mammal sighting. If needed, the bridge will be contacted in order to maneuver the ship to avoid interception with approaching marine mammals.

PSO Data and Documentation

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document reactions or lack thereof. Data will be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a shutdown of the seismic source when a marine mammal is within or near the EZ. When a sighting is made, the following information about the sighting will be recorded:

- Species, group size, and age/size/sex categories (if determinable); behavior when first sighted and after initial sighting; heading (if consistent), bearing and distance from seismic vessel; sighting cue, apparent reaction to the seismic source or vessel (*e.g.,* none, avoidance, approach, paralleling, *etc.*); and behavioral pace; and
- Time, location, heading, speed, activity of the vessel, sea state, visibility, cloud cover, and sun glare.

The data will also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding seismic source shutdown, will be recorded in a standardized format. Data collection procedures are adapted from the line-transect protocols developed by the SWFSC for their marine mammal abundance research cruises. A laptop computer is located on the observer platform for ease of data entry. The computer is connected to the ship's Global Positioning System, which allows a record of time and position to be made at 3-minute intervals and for each event entered (such as sightings, weather updates and effort changes). Data accuracy will be verified by the PSOs at sea and preliminary reports will be prepared during the field program and summaries forwarded to the SIO's shore facility and to NSF weekly or more frequently. PSO observations will provide the following information:

- The basis for decisions about shutting down the airgun arrays;
- Information needed to estimate the number of marine mammals potentially 'taken by harassment', which will be reported to NMFS;
- Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted; and
- Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the amount and nature of potential "take" of marine mammals by harassment or in other ways. All injured or dead marine mammals (regardless of cause) will be reported to NMFS as soon as practicable. The report should include species or description of animal, condition of animal, location, time first found, observed behaviors (if alive), and photo or video, if available.

Estimated Takes by Incidental Harassment

With respect to the activities described here, the MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The proposed mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury or mortality is considered remote. However, as noted earlier, there is no specific information demonstrating that injurious or lethal "takes" would occur even in the absence of the planned mitigation and monitoring measures. The sections here describe methods to estimate "take by Level B harassment" and present estimates of the numbers of marine mammals that might be affected during the proposed seismic program. The estimates of "take" are based on data collected in the ETP by NMFS SWFSC during 12 ship-based cetacean and ecosystem assessment surveys conducted during July–December from 1986–2006.

It is assumed that, during simultaneous operations of the seismic sources and the other sources, any marine mammals close enough to be affected by the MBES or SBP would already be affected by the seismic sources. However, whether or not the seismic sources are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the MBES and SBP given their characteristics (*e.g.,* narrow downward-directed beam) and other considerations described above, such as the unlikelihood of being exposed to the source at higher levels and the fact that it would likely only be for one or two pulses. Such reactions are not considered to constitute "taking" (NMFS, 2001). Therefore, no additional allowance is included for animals that might be affected by sound sources other than the seismic sources (*i.e.,* air guns).

Extensive systematic ship-based surveys have been conducted by NMFS SWFSC for marine mammals in the ETP. SWFSC has recently developed habitat modeling as a method to estimate cetacean densities on a finer spatial scale than traditional line-transect analyses by using a continuous function of habitat variables, *e.g.,* sea surface temperature, depth, distance from shore, and prey density (Barlow *et al.,* 2009). The models have been incorporated into a Web-based Geographic Information System (GIS) developed by Duke University's Department of Defense Strategic Environmental Research and Development Program (SERDP) team in close collaboration with the SWFSC SERDP team (Read *et al.,* 2009). The GIS was used to obtain densities for the 11

cetaceans in the model (Bryde's whale, blue whale, *Kogia* spp., *Mesoplodon* spp., rough-toothed, bottlenose, pantropical spotted, spinner, striped, and short-beaked common dolphins, and short-finned pilot whale) in each of eight areas: the four proposed survey areas (*see* Figure 1 in SIO's application), and corridors 1° wide and centered on the tracklines between the survey areas and from the southernmost survey area to the EEZ of Peru. For species sighted in SWFSC surveys whose sample sizes were too small to model density (sperm whale, humpback whale, Cuvier's beaked whale, Fraser's dolphin, Risso's dolphin, melon-headed, pygmy killer, false killer, and killer whales), SIO used densities from the surveys conducted during summer and fall 1986–1996, as summarized by Ferguson and Barlow (2001). Densities were calculated from Ferguson and Barlow (2003) for 5° x 5° blocks that include the proposed survey areas and corridors. Those blocks included 27,275 km (16,947.9 mi) of survey effort in Beaufort sea states 0–5 and 2564 km (1593.2 mi) of survey effort in Beaufort sea states 0–2. Densities were obtained for an additional eight species that were sighted in one or more of those blocks.

Oceanographic conditions, including occasional El Nino and La Nina events, influence the distribution and numbers of marine mammals present in the ETP, resulting in considerable year-to-year variation in the distribution and abundance of many marine mammal species (Escorza-Trevino, 2009). Thus, for some species, the densities derived from recent surveys (*see* Table 2 of this document) may not be representative of the densities that will be encountered during the proposed seismic survey.

Table 3 in SIO's application gives the average (or "best") and maximum densities for each species of cetacean likely to occur in the study area, *i.e.,* species for which densities were obtained or assigned. These densities have been corrected for both detectability and availability bias by the study authors. Detectability bias is associated with diminishing sightability with increasing lateral distance from the trackline. Availability bias refers to the fact that there is less than 100 percent probability of sighting an animal that is present along the survey trackline.

The estimated numbers of individuals potentially exposed are presented next based on the 160-dB re 1 μPa (rms) Level B harassment criterion for all cetaceans. It is assumed that marine mammals exposed to airgun sounds at that level might change their behavior sufficiently to be considered "taken by harassment".

It should be noted that the following estimates of "takes by harassment" assume that the surveys will be undertaken and completed; in fact, the planned number of line-kilometers has been increased to accommodate lines that may need to be repeated, equipment testing, *etc.* As is typical on offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated EZ will result in the shutdown of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to 160-dB re 1 μPa (rms) sounds are precautionary and probably overestimate the actual numbers of marine mammals that might be taken. These estimates assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

There is some uncertainty about the representativeness of the data and the assumptions used in the calculations presented here. However, the approach used here is believed to be the best available approach. Also, to provide some allowance for these uncertainties, "maximum estimates" as well as "best estimates" of the densities present and numbers potentially affected have been derived. Best estimates of density are the mean densities weighted by effort in the eight survey areas or corridors from Read *et al.* (2009) or the nine 5° x 5° blocks from Ferguson and Barlow (2001, 2003), whereas maximum estimates of density are the highest densities in any of those survey areas/corridors or blocks.

The number of different individuals that may be exposed to GI airgun sounds with received levels ≥160 dB re 1 μPa (rms) on one or more occasions was estimated by considering the total marine area that would be within the 160-dB radius around the operating airgun array on at least one occasion, along with the expected density of animals in the area. The proposed seismic lines do not run parallel to each other in close proximity, which minimizes the number of times an individual mammal may be exposed during the survey; in this case, an individual could be exposed 1.01 times on average. The numbers of different individuals potentially exposed to ≥160 dB re 1 μPa (rms) were calculated by multiplying the expected species density, either "mean" (*i.e.,* best estimate) or "maximum", times the anticipated area to be ensonified to that level during GI airgun operations.

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo GIS, using the GIS to identify the relevant areas by "drawing" the applicable 160-dB buffer (*see* Table 1 in this document) around each seismic line, and then calculating the total area within the buffers. Areas where overlap occurred (because of intersecting lines) were included only once when estimating the number of individuals exposed.

Applying the approach described here, approximately 4340 km^2 (1675.7 mi^2) would be within the 160-dB isopleth on one or more occasions during the surveys. This approach does not allow for turnover in the mammal populations in the study area during the course of the survey. That might underestimate actual numbers of individuals exposed, although the conservative distances used to calculate the area may offset this. In addition, the approach assumes that no cetaceans will move away or toward the trackline as the *Melville* approaches in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow (Table 3 in this document) is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to ≥160 dB re 1 μPa (rms). The take estimates presented here do not take the proposed mitigation measures into consideration and thus are likely to be overestimates.

TABLE 3—THE ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 DB DURING SIO'S PROPOSED SEISMIC SURVEY IN THE EASTERN TROPICAL PACIFIC OCEAN IN OCT–NOV 2010. THE PROPOSED SOUND SOURCE IS A PAIR OF GI AIRGUNS. RECEIVED LEVELS ARE EXPRESSED IN DB RE 1 μPA (RMS) (AVERAGED OVER PULSE DURATION), CONSISTENT WITH NMFS' PRACTICE. NOT ALL MARINE MAMMALS WILL CHANGE THEIR BEHAVIOR WHEN EXPOSED TO THESE SOUND LEVELS, BUT SOME MAY ALTER THEIR BEHAVIOR WHEN LEVELS ARE LOWER (SEE TEXT)

[*See* Tables 2–4 in SIO's Application for Further Detail]

Species	Number of individuals exposed (best) [1]	Number of individuals exposed (max) [1]	Approx. % regional population (best) [2]	Requested take authorization
Mysticetes:				
Bryde's whale, (*Balaenoptera edeni*)	3	6	0.02	3
Blue whale, (*Balaenoptera musculus*)	1	1	0.05	*2
Humpback whale, (*Megaptera novaeangliae*)	1	1	[3] NA	*2
Odontocetes:				
Sperm whale, (*Physeter macrocephalus*)	23	82	0.09	23
Cuvier's beaked whale, (*Ziphius cavirostris*)	10	20	0.05	10
Mesoplodon sp. (unidentified)	1	2	<0.01	1
Rough-toothed dolphin, (*Steno bredanensis*)	9	13	0.01	*15
Pantropical spotted dolphin, (*Stenella attenuata*)	67	122	0.01	*131
Spinner dolphin, (*Stenella longirostris*)	21	31	<0.01	*109
Bottlenose dolphin, (*Tursiops truncatus*)	82	125	0.02	82
Striped dolphin, (*Stenella coeruleoalba*)	6	291	<0.01	6
Fraser's dolphin, (*Lagenodelphis hosei*)	6	30	<0.01	*440
Short-beaked common dolphin, (*Delphinus delphis*)	777	1317	0.02	777
Pygmy killer whale, (*Feresa attenuata*)	3	10	0.01	*30
Melon-headed whale, (*Peponocephala electra*)	15	50	0.03	*258
Risso's dolphin, (*Grampus griseus*)	55	203	0.05	55
False killer whale, (*Pseudorca crassidens*)	2	11	0.01	*11
Killer whale, *(Orcinus orca*)	5	22	0.05	5
Short-finned pilot whale, (*Globicephala macrorhynchus*)	34	64	0.01	34

* Requested take authorization increased from 'best' exposure estimate to mean group size as reported in Ferguson *et al.* (2006).

[1] Best estimate and maximum estimate density are from Table 3 of SIO's application; therefore, takes are not anticipated for sei, fin, humpback, minke, Longman's beaked whales, pygmy sperm whales, and dwarf sperm whales. Humpback whale estimates calculated independently using methodology described previously.

[2] Regional population size estimates are from Table 2 in this document.

[3] Southern Hemisphere population sizes are poorly understood. However, the number of individuals potentially exposed is low relative to regional population.

Table 4 in SIO's application shows the best and maximum estimates of the number of exposures and the number of individual marine mammals that potentially could be exposed to ≥160 dB re 1 μPa (rms) during the seismic survey if no animals moved away from the survey vessel. Proposed take authorizations are based on best estimates, calculated according to the methodology described previously. The best estimate of the number of individual cetaceans that could be exposed to seismic sounds with received levels ≥160 dB re 1 μPa (rms) (but below Level A harassment thresholds) during the survey is shown in Table 4 of SIO's application and Table 3 here. That total includes 25 endangered whales: 1 blue whale (0.05% of the regional population), 1 humpback whale, and 23 sperm whales (0.09%). Percentage of regional population for humpback whale is not listed because Southern Hemisphere population numbers are poorly understood; however, the authorized take is low compared to regional population. It should be noted that the applicant did not initially request take authorization for humpback whales, believing that migrating individuals would depart the proposed study area prior to the activity dates. In subsequent discussions between NMFS and the applicant, it was agreed that there was some reasonable chance that late-migrant Southern Hemisphere individuals could be present in one or more of the study areas. The proposed take authorization for humpback whales reflects this decision. Most (96.8%) of the cetaceans potentially exposed are delphinids; short-beaked common, pantropical spotted, bottlenose, and Risso's dolphins and short-finned pilot whales are estimated to be the most common species in the area, with best estimates of 777 (0.02% of the regional population), 67 (0.01%), 82 (0.02%), 55 (0.05%), and 34 (0.01%) exposed to ≥160 dB re 1 μPa (rms), respectively. For certain species where the calculated number of individuals exposed was between 1 and the mean group size, the requested take authorization has been increased to the mean group size as observed in the ETP (Ferguson *et al.,* 2006).

Negligible Impact and Small Numbers Analysis and Preliminary Determination

NMFS has defined "negligible impact" in 50 CFR 216.103 as "* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

NMFS has preliminarily determined that the impact of conducting the low-energy marine seismic survey in the ETP may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. No mortality or injuries are

anticipated as a result of the specified activity, and none are proposed to be authorized. Additionally, animals in the area are not expected to incur hearing impairment (*i.e.,* TTS or PTS) or non-auditory physiological effects. Due to the nature, degree, and context of behavioral harassment anticipated, the activity is not expected to impact rates of recruitment or survival. This activity is expected to result in a negligible impact on the affected species or stocks.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Seismic operations are only scheduled to occur at each site for approximately 2 days. Additionally, the source vessel will be constantly moving and will not remain in any one spot for a prolonged period of time. Survey operations will be conducted solely in deep-water areas of no specifically-known (*e.g.,* breeding) importance for the species described.

Several species for which take authorization is requested are either ESA-listed and/or are considered "Depleted" under the MMPA. Blue, sperm, and humpback whales are listed as Endangered under the ESA (as well as MMPA–Depleted). Along the California coast blue whale abundance has been increasing during the past two decades (Calambokidis *et al.,* 1990; Barlow, 1994; Calambokidis, 1995). Though the magnitude of this apparent increase is too large to be accounted for by population growth alone and, therefore, is assumed to partly result from a shift in distribution, there is an apparent increasing trend. Some individuals from this stock may be present year-round on the Costa Rica Dome (Reilly and Thayer, 1990). Although the population in the North Pacific is expected to have grown since being given protected status in 1966, there is no evidence showing that the eastern North Pacific stock is currently growing, and no information exists on the rate of growth of blue whale populations in the Pacific (Best, 1993). Slightly more information is available for sperm whales, and it has been suggested that ETP animals of this species may form a distinct stock (Dufault and Whitehead 1995; Jaquet *et al.,* 2003). However, little is known about population trends and growth rates in the survey area. Again, populations are assumed to have increased since the species gained protection. Humpback whales potentially seen in the survey area would likely be late migrant individuals belonging to Southern Hemisphere stocks, where the International Whaling Commission has designated seven major breeding stocks linked to seven major feeding areas. In most areas for which there are good data, humpback whales have shown evidence of strong recovery towards their unexploited size, with annual increase rates of about 10% being recorded in a number of areas including off South America. The total Southern Hemisphere abundance is probably at least 60,000, although little data on which to base this number exists. The eastern spinner dolphin (*S. l. orientalis*), considered an offshore species and common in the survey area, is considered a Depleted stock under the MMPA. The long-term trend is flat for this stock. For all of these species, the levels of requested take are small relative to the regional population (*see* Table 3 in this document).

For reasons stated previously in this document, the negligible impact determination is also supported by the likelihood that, given sufficient "notice" through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious; the fact that cetaceans would have to be closer than 40 m (131.2 ft) in deep water when the GI airgun is in use from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing PTS; and the likelihood that marine mammal detection ability by trained observers is high at that short distance from the vessel, enabling the implementation of shut-downs to avoid injury, serious injury, or mortality. As a result, no take by injury or death is anticipated, and the potential for temporary or permanent hearing impairment is very low and will be avoided through the incorporation of the proposed mitigation measures.

While the number of marine mammals potentially incidentally harassed will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small, less than one percent of any of the estimated population sizes, and has been mitigated to the lowest level practicable through incorporation of the proposed mitigation and monitoring measures mentioned previously in this document.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that the proposed SIO seismic survey will result in the incidental take of small numbers of marine mammal, by Level B harassment only, and that the total taking from the seismic survey will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Subsistence whaling of several species of small cetaceans, including the bottlenose dolphin, takes place in territorial coastal waters of Peru (Read *et al.,* 1998). This hunt is mainly for human consumption and uses gill nets, purse seines, and harpoons. Read *et al.* (1998) estimated that approximately 10,000 dolphins and porpoises were landed in Peru in 1985. Because the seismic surveys are in offshore waters, the proposed activities will not have any impact on the availability of the species or stocks for subsistence users. However, there are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

There are six marine mammal species that are listed as endangered under the ESA with confirmed or possible occurrence in the study area: The humpback whale, South Pacific right whale, sei whale, fin whale, blue whale, and sperm whale. Under section 7 of the ESA, SIO has begun consultation with NMFS on the proposed seismic survey. NMFS will also consult internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. As discussed previously in this document, take is requested only for species likely to occur in the survey area during the project timeframe (blue, humpback, and sperm whales), and consultation will consider these three species. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

On behalf of NSF, LGL Limited, Environmental Research Associates, prepared an EA titled "Environmental Assessment of a Marine Geophysical Survey by the R/V *Melville* in the Pacific

Ocean off Central and South America, October-November 2010". NMFS, after independently reviewing and evaluating the document for sufficiency and compliance with the Council on Environmental Quality regulations and NOAA Administrative Order 216–6, will either adopt NSF's EA or conduct a separate NEPA analysis, as necessary, prior to making a determination on the issuance of the IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA for Level B harassment, at levels specified in Table 3 of this document, to SIO incidental to conducting a low-energy marine seismic survey in the ETP during the period October-November 2010, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 30, 2010.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–22080 Filed 9–2–10; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 10/4/2010.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 7/2/2010 (75 FR 38467–38468) and 7/9/2010 (75 FR 39497–39499), the Committee for Purchase From People Who Are Blind or Severely Disabled published Notices of proposed additions to the Procurement List.

Comments were received from a nonprofit agency that was not selected as the designated nonprofit agency to perform the Janitorial and Grounds Service at the Alan Bible Federal Building and Lloyd George U.S. Courthouse in Las Vegas, NV. In its comments, the nonprofit agency questions the fairness of the process used by the central nonprofit agency to identify the nonprofit agency to perform this project.

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) operates pursuant to statutory and regulatory requirements. In accordance with these requirements, the Committee has designated central nonprofit agencies to perform certain duties, including facilitating the distribution of Government orders for goods and services among qualified nonprofit agencies. The central nonprofit agencies have established order distribution procedures which include dispute resolution processes. Accordingly, in this instance, if a qualified nonprofit agency questions the fairness of the order distribution process conducted by the central nonprofit agency, they must utilize the established dispute resolution process.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN: 7220–00–NIB–0367—Disposable Urinal Floor Mat.
NSN: 7220–00–NIB–0368—Disposable Toilet Floor Mat.
NPA: NewView Oklahoma, Inc., Oklahoma City, OK.
Contracting Activity: GSA/Federal Acquisition Service, Fort Worth, TX.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.

NSN: 7520–01–377–9534—Cord Connector/Rotator, Telephone, Twisstop, Black.
NSN: 7520–00–NIB–2084—Shoulder Rest, Telephone, Black, Softak II.
NSN: 7520–00–NIB–2085—Shoulder Rest, Telephone, Black.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 7520–01–253–1283—Shoulder Rest, Telephone, Beige, 2¼″ W × 7″ L.
NSN: 7520–01–377–9533—Cord Connector/Rotator, Telephone, Twisstop, Clear.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Bestwork Industries for the Blind, Inc., Runnemede, NJ.
Contracting Activity: GSA/Federal Acquisition Service, New York, NY.

NSN: 7910–00–NIB–0236—Surface Prep pad 13."
NSN: 7910–00–NIB–0240—Surface Prep pad 17."
NSN: 7910–00–NIB–0243—Surface Prep pad 20."
NPA: Beacon Lighthouse, Inc., Wichita Falls, TX.
Contracting Activity: Department of Veteran Affairs, National Acquisition Center, Hines, IL.
Coverage: C-List for 100% of the requirement of the Department of Veterans Affairs as aggregated by the Department of Veterans Affairs National Acquisition Center, Hines, IL.

NSN: 8415–00–NIB–0210—Pants, United States Coast Guard Running Suit, Size XS.
NSN: 8415–00–NIB–0778—Pants, United States Coast Guard Running Suit, Size SM.
NSN: 8415–00–NIB–0779—Pants, United States Coast Guard Running Suit, Size MD.
NSN: 8415–00–NIB–0780—Pants, United States Coast Guard Running Suit, Size LG.
NSN: 8415–00–NIB–0781—Pants, United States Coast Guard Running Suit, Size X–LG.
NSN: 8415–00–NIB–0782—Pants, United States Coast Guard Running Suit, Size XX–LG.
NPA: Association for the Blind & Visually Impaired & Goodwill Ind. of Greater Rochester, Rochester, NY.
Contracting Activity: Department of

Homeland Security, U.S. Coast Guard, Washington, DC.
Coverage: C-List for 100% of the requirements for the U.S. Coast Guard as aggregated by the U.S. Coast Guard.

Services

Service Type/Locations: Janitorial & Grounds Service, Alan Bible Federal Building, 600 Las Vegas Blvd South, Las Vegas, NV.
Lloyd George U.S. Courthouse, 333 Las Vegas Blvd South, Las Vegas, NV.
NPA: Opportunity Village Association for Retarded Citizens, Las Vegas, NV.
Contracting Activity: General Services Administration, Public Buildings Service, Acquisition, San Francisco, CA.
Service Type/Location: Hospital Housekeeping Service, Martin Army Community Hospital, 9200 Martin Loop, Fort Benning, GA.
NPA: Job Options, Inc., San Diego, CA.
Contracting Activity: Dept of the Army, XU W40M Southeast Regional Contracting Office, Fort Gordon, GA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2010–22054 Filed 9–2–10; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List: Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and to delete products previously furnished by such agency.

Comments must be received on or before: 10/4/2010.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: *For further information or to submit comments contact:* Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.
2. If approved, the action will result in authorizing small entities to provide the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List to be provided by the nonprofit agencies listed:

Services

Service Type/Location: Grounds Maintenance Service, Great Lakes Naval Training Center, Great Lakes, IL.
NPA: Challenge Unlimited, Inc., Alton, IL.
Contracting Activity: Dept of the Navy, Naval FAC Engineering CMD Midwest, Great Lakes, IL.
Service Type/Location: Property Management, Horace M. Albright Training Center and Residence Hall, Grand Canyon National Park, AZ.
NPA: Trace, Inc., Boise, ID.
Contracting Activity: National Park Service, WASO–WCP–Denver Contracting and Procurement, Lakewood, CO.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish the products to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Specimen Container

NSN: 6550–00–NIB–0009—1/4 turn cap, sterile individually wrapped.
NSN: 6550–00–NIB–0010—1/4 turn cap, sterile.
NSN: 6550–00–NIB–0011—1/4 turn cap, non-sterile.
NSN: 6550–00–NIB–0013—full turn cap, sterile.
NSN: 6550–00–NIB–0019—120 ml, sterile, 300/case.
NSN: 6550–00–NIB–0020—120 ml, non-sterile, 300/case.
NSN: 6550–00–NIB–0021—120 ml, sterile, individually wrapped, 100/case.
NPA: Alphapointe Association for the Blind, Kansas City, MO.
Contracting Activity: Department of Veterans Affairs, NAC, Hines, IL.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2010–22055 Filed 9–2–10; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Grant Partially Exclusive License of the United States Patent Application No. 12/243,084, Filed October 01, 2008 Entitled: Soluble Salt Produced From a Biopolymer and a Process for Producing the Salt

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of a prospective partially exclusive license of the following U.S. Patent Application 12/243,084 Filed October 01, 2008 to SecureNet LLC for use of the biopolymer for change detection and security applications.

DATES: Written objections must be filed not later than 15 days following publication of this announcement.

ADDRESSES: United States Army Engineer Research and Development

Center, *Attn:* CEERD–OT (Ms. Bea Shahin), 2902 Newmark Drive, Champaign, IL 61822–1076.

FOR FURTHER INFORMATION CONTACT: Ms. Bea Shahin (217) 373–7234, FAX (217) 373–7210, *e-mail: Bea.S.Shahin@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This patent application claims a method by which a biologically-natural material can be produced in bioreactors and transformed for use as a dry solid. The resulting biopolymer material can be used in place of synthetic, petroleum-based polymers for soil amendment applications to achieve increased soil strength, reduced air transport, and decreased soil erosion. During processing, the biopolymer also can be functionalized to improve its adsorption of heavy metals.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2010–22046 Filed 9–2–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Grant Partially Exclusive License of the United States Patent Application No. 12/243,084, Filed October 01, 2008, Entitled: Soluble Salt Produced From a Biopolymer and a Process for Producing the Salt

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of a prospective partially exclusive license of the following U.S. Patent Application 12/243,084, Filed October 01, 2008, to Green & Grow LLC for use in agricultural applications and products (to include crop preparation, cover crop, seed germination, seed coatings, side dressing, lawn application and starter ground cover) and applications in the fields of soil and slope stabilization, enhanced bioremediation, dust and run-off control, fly ash removal, emissions particulate removal, metal and inorganic chelation in soils and water, soil erosion, road stabilizer, and dust suppression.

DATES: Written objections must be filed not later than 15 days following publication of this announcement.

ADDRESSES: United States Army Engineer Research and Development Center, *Attn:* CEERD–OT (Ms. Bea Shahin), 2902 Newmark Drive, Champaign, IL 6182–1076.

FOR FURTHER INFORMATION CONTACT: Ms. Bea Shahin (217) 373–7234, FAX (217) 373–7210, *e-mail: Bea.S.Shahin@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This patent application claims a method by which a biologically-natural material can be produced in bioreactors and transformed for use as a dry solid. The resulting biopolymer material can be used in place of synthetic, petroleum-based polymers for soil amendment applications to achieve increased soil strength, reduced air transport, and decreased soil erosion. During processing, the biopolymer also can be functionalized to improve its adsorption of heavy metals.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2010–22047 Filed 9–2–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–171–C]

Application To Export Electric Energy; Powerex Corp

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Powerex Corp. (Powerex) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or requests to intervene must be submitted on or before October 4, 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 February 25, 1998, the DOE issued Order No. EA–171 which authorized Powerex to transmit electric energy from the United States to Canada for a two-year term as a power marketer using existing international transmission facilities. DOE renewed the Powerex export authorization on February 23, 2000, for a five-year term in Order No. EA–171–A, and again for five years on November 18, 2005, in Order No. EA–171–B. That Order will expire on November 18, 2010. On May 19, 2010, Powerex filed an application with DOE for renewal of the export authority contained in Order No. EA–171–B for an additional five-year term.

The electric energy that Powerex 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 Powerex 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 Powerex application to export electric energy to Canada should be clearly marked with Docket No. EA–171–C. Additional copies are to be filed directly with Mike MacDougal and Karen McDonald, Powerex Corp., 666 Burrard Street, Suite 1400, Vancouver, British Columbia, Canada V6C 2X8 and Deanna E. King, Bracewell & Giuliani LLP, 111 Congress Avenue, Suite 2300, Austin, Texas 78701. 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 27, 2010.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–22064 Filed 9–2–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EERE–2006–BC–0132]

RIN 1904–AC18

Building Energy Standards Program: Preliminary Determination Regarding Energy Efficiency Improvements in the Energy Standard for Buildings, Except Low-Rise Residential Buildings, ANSI/ASHRAE/IESNA Standard 90.1–2007

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

ACTION: Notice of preliminary determination.

SUMMARY: The Department of Energy (DOE) has preliminarily determined that the 2007 edition of the *Energy Standard for Buildings, Except Low-Rise Residential Buildings,* American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Illuminating Engineering Society of North America (IESNA) Standard 90.1–2007, (Standard 90.1–2007) would achieve greater energy efficiency in buildings subject to the code, than the 2004 edition (Standard 90.1–2004 or the 2004 edition). Also, DOE has preliminarily determined that the quantitative analysis of the energy consumption of buildings built to Standard 90.1–2007, as compared with buildings built to Standard 90.1–2004, indicates national source energy savings of approximately 3.7 percent of commercial building energy consumption. Additionally, DOE has preliminarily determined site energy savings are estimated to be approximately 4.4 percent. If these determinations are finalized, States would be required to certify that they have reviewed the provisions of their commercial building code regarding energy efficiency, and as necessary, updated their code to meet or exceed Standard 90.1–2007. Additionally, this Notice provides guidance to States on Certifications, and Requests for Extensions of Deadlines for Certification Statements, should the preliminary determination by adopted as final.

DATES: Comments on the preliminary determination must be provided by October 4, 2010.

ADDRESSES: You may submit comments, identified by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: ronald.majette@ee.doe.gov.* Include RIN 1904–AC18 in the subject line of the message.
- *Postal Mail:* Mr. Ronald B. Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, Please submit one signed paper original.
- *Hand Delivery/Courier:* Mr. Ronald B. Majette, U.S. Department of Energy, Building Technologies Program, Room 6003, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

Instructions: All submissions must include the agency name, Department of Energy, and docket number, EERE–2006–BC–0132, or Regulatory Information Number (RIN), 1904–AC18, for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald B. Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, 202–586–7935. For legal issues contact Kavita Patel, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0669, e-mail: *Kavita.Patel@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction
A. Statutory Requirements
B. Background
1. Publication of Standard 90.1–2007
2. Analysis Methodology
3. DOE Response to Comments on Previous Analysis
C. Summary of the Comparative Analysis
1. Quantitative Analysis
2. Detailed Textual Analysis
D. Preliminary Determination Statement
II. Results of Quantitative Analysis
III. Discussion of Detailed Textual Analysis
IV. Filing Certification Statements With DOE
A. Review and Update
B. Certification
C. Requests for Extensions To Certify
V. Regulatory Analysis
A. Review Under Executive Order 12866
B. Review Under the Regulatory Flexibility Act
C. Review Under the National Environmental Policy Act of 1969
D. Review Under Executive Order 13132, "Federalism"
E. Review Under the Unfunded Mandates Reform Act of 1995
F. Review Under the Treasury and General Government Appropriations Act of 1999
G. Review Under the Treasury and General Government Appropriations Act of 2001
H. Review Under Executive Order 13211
I. Review Under Executive Order 13175
VI. Public Participation
VII. Approval of the Office of the Secretary

I. Introduction

A. Statutory Requirements

Title III of the Energy Conservation and Production Act, as amended (ECPA), establishes requirements for the Building Energy Efficiency Standards Program. (42 U.S.C. 6831 *et seq.*) Section 304(b), as amended, of ECPA provides that whenever the ANSI/ASHRAE/IESNA Standard 90.1–1989 (Standard 90.1–1989 or 1989 edition), or any successor to that code, is revised, the Secretary must make a determination, not later than 12 months after such revision, whether the revised code would improve energy efficiency in commercial buildings and must publish notice of such determination in the **Federal Register**. (42 U.S.C. 6833 (b)(2)(A)) The Secretary may determine that the revision of Standard 90.1–1989 or any successor thereof, improves the level of energy efficiency in commercial buildings. If so, then not later than two years after the date of the publication of such affirmative determination, each State is required to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency with respect to the revised or successor code. (42 U.S.C. 6833(b)(2)(B)(i)) The State must include in its certification a demonstration that the provisions of its commercial building code, regarding energy efficiency, meet or exceed the revised standard. (42 U.S.C. 6833(b)(2)(B)(i))

If the Secretary makes a determination that the revised standard will not improve energy efficiency in commercial buildings, State commercial codes shall meet or exceed the last revised standard for which the Secretary has made a positive determination. (42 U.S.C. 6833(b)(2)(B)(ii)). On December 30, 2008, the Secretary published a determination in the **Federal Register** updating the reference code to Standard 90.1–2004. 73 FR 79868.

ECPA also requires the Secretary to permit extensions of the deadlines for the State certification if a State can demonstrate that it has made a good faith effort to comply with the requirements of Section 304(c) of ECPA and that it has made significant progress in doing so. (42 U.S.C. 6833(c))

B. Background

1. Publication of Standard 90.1–2007

The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and the Illuminating Engineering Society of North America (IESNA) approved the publication of the 2007 edition of *Energy Standard for Buildings Except Low-rise Residential Buildings,* in December 2007.

The Standard was developed under American National Standards Institute approved consensus standard procedures. Standard 90.1 is under continuous maintenance by a Standing Standard Project Committee (SSPC) for which the ASHRAE Standard Committee has established a documented program for regular publication of addenda or revisions, including procedures for timely, documented, consensus action on requests for change to any part of the standard. The American National Standards Institute (ANSI) approves addenda prior to their publication by ASHRAE and IESNA and therefore prior to their inclusion in a new version of Standard 90.1. ANSI approved the final addendum for inclusion in Standard 90.1–2007 on December 18, 2007. The 2007 edition was published in December 2007.

2. Analysis Methodology

In arriving at a preliminary determination, the DOE first reviewed all significant changes between the 2004 edition and the 2007 edition of Standard 90.1. Standard 90.1 is complex and covers a broad spectrum of the energy related components and systems in buildings ranging from simple storage buildings to complex hospitals and laboratories. The size of buildings addressed range from those smaller than single family homes to the largest buildings in the world. The approach to development of the standard used in the 2007 edition was not changed from that used for the 2004 edition, with no changes to the scope or the way components are defined. We preliminarily determined that because no significant changes were made to the structure, scope, or component definitions of Standard 90.1–2004, a similar methodology used for the analysis of Standard 90.1–2004 could be utilized for the analysis of Standard 90.1–2007, consisting of a qualitative comparison of the textual changes to requirements in Standard 90.1–2007 from Standard 90.1–2004, and a quantitative estimate of the energy savings developed from whole building simulations of a standard set of buildings constructed to both Standards over a range of U.S. climates. DOE chose to modify several details of how the quantitative analysis would be done, including changes in the simulation tool used, the building models, and the procedure and data for weighting of results by building type and climate. DOE held a public workshop on February 18, 2009 to provide for public comment on the proposed analysis methodology. DOE provided notice of the workshop in the **Federal Register** (74 FR 4169; Jan. 23, 2009) in which it outlined changes in the methodology from previous determinations and identified ten key issues for which it requested stakeholder input. These issues were:

(1) Specific reductions in stringency in Standard 90.1–2007 that DOE should be made aware of and that have been identified by stakeholders.

(2) Specific changes in scope between Standard 90.1–2004 and Standard 90.1–2007 and how DOE should interpret expansions of scope in its determination.

(3) DOE's proposed approach to changes in referenced ventilation standards between Standard 90.1–2004 and Standard 90.1–2007.

(4) DOE's proposed approach for addressing future effective dates for mechanical equipment requirements.

(5) The frequency of use of alternative paths to compliance in building standards (*e.g.* space-by-space versus whole building lighting power allowances).

(6) New non-residential building construction data (including Mid-rise and High-rise residential) by State or census division and building type.

(7) Data to quantify the impact of Standard 90.1 on additions and renovations to existing buildings.

(8) The relative prevalence of the semi-heated building envelope subcategory in the building types proposed for analysis (*e.g.* warehouses).

(9) The relative importance of the Mid- and High-rise residential sector in DOE's determination and data for developing weighting factors for this sector.

(10) Data describing the relative frequency of use of alternative paths to compliance.

DOE only received stakeholder input peripherally related to one of these key issues, that of the relative importance of mid- to high-rise residential building and their construction. However, DOE received input on several other issues of concern to stakeholders.

3. DOE Response to Comments on Previous Analysis

DOE sought comment on its general approach to the preliminary determination analysis and during the public meeting outlined the proposed approach and responded to questions and to comments received. DOE reviewed the comments and data submitted regarding issues raised in the proposed methodology for the quantitative analysis. The more significant comments are discussed below. DOE received comments in four general areas regarding the determination analysis methodology: The treatment of equipment efficiency improvements, characteristics of multi-family buildings, climates used in the quantitative analysis, and how DOE addresses the cost-effectiveness of requirements. DOE received other comments relating to how the determination results were to be used.

DOE's proposed quantitative analysis methodology includes any equipment efficiency improvements mandated by Federal equipment efficiency standards, either established by DOE or by legislation but not initiated by addenda to ASHRAE 90.1–2004, in the ASHRAE 90.1–2004 baseline. The purpose for this is to prevent inclusion in the quantitative analysis of energy savings that would occur in new building construction (due to these mandated equipment efficiency improvements) regardless of the use of Standard 90.1–2004 or Standard 90.1–2007 as the basis for State building codes. This is consistent with the approach used in previous DOE determinations.

The National Multi Housing Council (NMHC) commented that DOE's approach would seem to miss an important energy savings feature and that the published standard does have a list of equipment efficiencies that should be the base for the calculations. NMHC commented that taking this into account would seem to be more important given the emphasis to improve the efficiency of the standard by a certain percentage. Also, NMHC commented that there is a time lag between when equipment improvements are adopted by the standards and when DOE publishes these as requirements. (NMHC, Public Meeting Transcript, pp. 38, 40–41)

DOE does not use the determination methodology to ascertain whether the standard has met a minimum percentage improvement and is instead focused on estimating whether the adoption of the revised standard as the basis of State building codes would result in energy savings, as compared to the previous

version. With regard to the last statement, DOE's quantitative analysis methodology does include energy savings from improvements in equipment efficiency first initiated by ASHRAE 90.1 in part because these improvements can be requirements in building codes before they can be promulgated as Federal minimum equipment efficiency standards. After considering the statements of NMHC, DOE determined not to modify its proposed methodology.

The Responsible Energy Codes Alliance (RECA) wanted clarification and assurance that DOE was not providing credit in the assessment of energy savings for any requirements in 90.1 that would in fact be preempted by existing Federal equipment efficiency standards and therefore could not be promulgated in State codes. (RECA, Public Meeting Transcript, pp. 43–45) DOE notes that there are no such requirements in ASHRAE Standard 90.1–2007 and that this concern does not exist for this preliminary determination.

In its discussion on the number of climates, NMHC asked if DOE planned to reduce the number of simulation locations from those identified in the notice and encouraged DOE not to reduce the number of locations used for the quantitative analysis simulations. (NMHC, Public Meeting Transcript, p. 57) In response, DOE will use a single representative climate for each of the 15 U.S. climate zones identified in the ASHRAE Standard 90.1–2004 and ASHRAE Standard 90.1–2007 documents. It did not reduce the number of climate zones being used in the quantitative analysis but rather increased this number when compared with previous determinations.

In commenting on representativeness of the multi-family building models, the NMHC commented that wood-frame was the dominant construction type up to and including four stories. NMHC stated that above five stories, steel-frame construction is more common, but the percentage of the construction market represented by these taller buildings drops off considerably. NMHC suggested that for the mid-rise multi-family buildings, DOE could assume that wood-frame construction was representative of the market. NMHC noted a steel-frame building would be more representative of a high-rise construction (10 stories) and DOE could assume steel-frame for the high-rise multi-family building class. (NMHC, Public Meeting Transcript, p. 65) The American Forest & Paper Association (AF&PA) expressed concern that the quantitative analysis would not pick up on the fact that multi-family buildings are built out of wood-frame construction. (AF&PA, Public Meeting Transcript, p. 73) In response, DOE appreciates the information provided by the NMHC and points out that wood-frame construction does form the basis of the mid-rise apartment building model. DOE has not included a high-rise apartment building model into its quantitative analysis for the Standard 90.1–2007 determination.

AF&PA expressed concern over how the results of a quantitative analysis are used by DOE and presented to the building community. In particular, AF&PA questioned why a quantitative analysis is being done by DOE, given the legislative charge to DOE regarding the determination. AF&PA stated that it appeared that doing a quantitative analysis may be going beyond what is required of DOE. Further, AF&PA stated that DOE believes that this comparison can be done with a qualitative analysis, but DOE is choosing to bring in a quantitative analysis that misses some very significant issues such as construction type and material choices. They stated that it seems that the DOE goal for 30 percent savings applies only to Federal buildings and questioned why DOE isn't looking at a typical pool of Federal buildings if it wants to do a quantitative analysis toward that goal. Finally, AF&PA stated that the results of a quantitative analysis would be a driving factor with the 90.1 committee, and that this would put further pressure on the committee to increase the stringency of wood-frame construction. (AF&PA, Public Meeting Transcript, pp. 69–74)

In response, DOE notes that the preliminary determination on ASHRAE Standard 90.1–2007 is not related to the legislative goal of 30-percent improvement in Federal buildings. In addition, while DOE has signed a memorandum with ASHRAE to improve energy efficiency in commercial building codes (Memorandum of Understanding between the United States Department of Energy and the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. Signed July 2007), DOE does not consider the purpose of the preliminary determination to measure how far along a path building standards have progressed from ASHRAE Standard 90.1–2004. DOE does believe that a quantitative analysis of savings should be done alongside a qualitative analysis and has carried this through in past ASHRAE Standard 90.1 determinations. The quantitative analysis allows DOE to examine quantitatively multiple changes to Standard 90.1, with some reflecting improved efficiency, and others possibly reduced efficiency to determine in balance whether there has been an overall improvement in building efficiency. DOE does not intend for this preliminary determination to be used as a tool to measure progress toward a 30-percent improvement in commercial building energy codes beyond ASHRAE Standard 90.1–2004. In support of both the preliminary determination and ASHRAE-driven code improvement process, DOE and ASHRAE are relying on a sample set of commercial buildings (based on the DOE benchmark buildings developed for DOE's Net-Zero Energy Commercial Buildings Initiative and available at *http://www1.eere.energy.gov/buildings/commercial_initiative/benchmark_models.html*) for measuring improvement in commercial building efficiency. DOE is using versions of this same set of building models for both the preliminary determination quantitative analysis as well as in a separate project to track improvement in future updates to ASHRAE Standard 90.1. The versions used for this preliminary determination can be found at *http://www.energycodes.gov/implement/determinations_90.1-2007.stm*.

Following up on AF&PA comments, ASHRAE commented that the Standard 90.1 development process is done with consensus building following the ANSI process and is developed through a broad spectrum of representation. ASHRAE further commented that the 30-percent target that was reflected in a memorandum with DOE to improve efficiency in commercial buildings is a goal, not a mandate, since a mandate cannot be placed on a consensus body. (ASHRAE, Public Meeting Transcript, pp. 81, 82)

AF&PA also commented that the DOE analysis reflects a snapshot in time and does not consider changes that will occur in the marketplace. Further, AF&PA believed that there is a legislative charge for DOE to support the notion of cost-effectiveness and use of readily available technology. They asked if there is a way for DOE to become more engaged in how that aspect is driving changes in envelope energy performance. (AF&PA, Public Meeting Transcript, pp. 87–88) In response, DOE points out that the analysis used to set the envelope requirements for different construction assemblies had cost-effectiveness as its basis. However, the purpose of the preliminary determination analysis is not to investigate the validity of the development of ASHRAE Standard

90.1–2007 but to determine whether it reflects an increase in efficiency.

AF&PA also asked if a description of the building models, in particular how infiltration is modeled, could be provided. (AF&PA, Public Meeting Transcript, pp. 93–94) DOE has included a description of the benchmark building models and how these were used in the quantitative analysis documentation published at *http://www.energycodes.gov/implement/determinations_90.1–2007.stm.*

RECA commented that some States that will adopt the International Energy Conservation Code (IECC) for both residential and commercial building energy codes with the understanding that because ASHRAE is referenced by the IECC, they are essentially equivalent. RECA asked whether DOE has prepared any guidance for States to describe what is acceptable and whether this would be provided in the preliminary determination. (RECA, Public Meeting Transcript, pp. 111–112)

Currently, DOE has not published any statements that a version of the IECC is equivalent in terms of energy savings to for ASHRAE 90.1 in the State code certification process. Each State's submittal with regard to certification of its energy code is dealt with on a case-by-case basis. Further, the DOE commercial energy code certification requirements with regard to meeting or exceeding the efficiency of the most recent ASHRAE Standard 90.1 version for which a positive determination has been made are separate from the residential energy code certification requirements that reference the IECC. Some States may adopt the IECC and not adopt the commercial code requirements. For these reasons, DOE considers the commercial and residential building energy code certification by the States a separate process.

As acknowledged in the previous analysis, DOE recognizes that, given the numerous assumptions required to simulate the potential impact of a new commercial building energy standard, reasonable minds could differ over both the specific building models employed and the assumptions used in those models. DOE also recognizes the cautions from AF&PA regarding the quantitative analysis and previous comments about the complexity of the problem.

DOE recognizes that the methodology proposed for the quantitative analysis will be insufficient for determining an absolute quantification of energy savings estimates associated with using Standard 90.1–2007 (*e.g.,* total quads of energy savings) and makes no such claim for the analysis on which this preliminary determination relies. DOE's quantitative analysis includes many of the changes brought about in Standard 90.1–2007 that can be modeled, but this quantitative analysis is not able to quantify accurately all the likely effects of the new standard. In particular, the degree to which the market may react to certain changes brought about following the adoption of a new building code, and the degree to which different requirements are currently being met or will be met in future construction, are exceedingly difficult to ascertain and would affect the absolute quantification of energy savings. However, DOE believes that the quantitative determination process outlined does provide a reasonable approach to establishing whether, in concert, the changes brought about by ASHRAE Standard 90.1–2007 will result in improved energy efficiency in buildings over ASHRAE Standard 90.1–2004.

DOE continues to believe that the preliminary determination should rely on both quantitative and qualitative comparisons. While quantitative estimates of energy savings are indeed a much preferred method of comparison, it is not always possible to simulate or provide appropriate weighting to many features in Standard 90.1. Therefore, DOE will continue to note changes that individually or in net result in increased energy efficiency, even where they could not be accurately quantified. States can use this information when upgrading their energy codes.

DOE continues to believe that the quantitative analysis should be based on the minimum requirements of each standard that reflect the minimum set of options available in new construction. In assessing the impact of those requirements, DOE also believes that assessment should be based on an estimate of typical construction practices. DOE believes that this has been done in the quantitative analysis.

For this preliminary determination, DOE utilized 5 years of previous building construction data, as developed using proprietary F.W. Dodge building statistical data by building type and by location down to the county level and purchased by DOE, to develop weighting factors to weight the building simulation results. (A summary of the data is available in a PNNL report—PNNL–19116—Jarnagin and Bandyopodhyay, 2010, Weighting Factors for the Commercial Building Prototypes used in the Development of ANSI/ASHRAE/IESNA Standard 90.1–2010 at *http://www.pnl.gov/main/publications/external/technical_reports/PNNL–19116.pdf.*) Past determinations have relied on new construction floor space growth estimates extracted from the Energy Information Administration's (EIA) National Energy Modeling System (NEMS) as the basis for weighting energy savings across building types and regions. DOE believes that for the purpose of this analysis the F.W. Dodge construction data provides better mapping of actual construction by region and building type than could be obtained using the EIA/NEMS data. In particular, the use of county-level construction data allowed DOE to develop building construction statistics directly reflecting construction in each of the ASHRAE climate regions, avoiding many assumptions on regional construction volume that would be necessary using the EIA/NEMS data.

Consistent with the previous analysis, DOE compared versions of Standard 90.1 "as a whole" and did not issue determinations for individual addenda. DOE interprets the language in Section 304(b)(2) of ECPA to mean that when a comprehensive revision of the ASHRAE Standard is published (which in this case is ASHRAE Standard 90.1–2007), then that revised or successor standard triggers the Secretary's obligation to issue a determination as to whether the revised standard improves energy efficiency. This determination is made by comparing the revised or successor standard to the last predecessor standard. While the addenda process is part of the ongoing maintenance of the standard and thus continually modifies or revises the existing standard over time, it would be an unreasonable reading of the statute to categorize each addenda in this maintenance process as a "revised or successor standard" within the meaning of Section 304(b)(2) of ECPA, so as to require a determination by the Secretary. Such an interpretation of the statute would put an unreasonable burden both on the States and DOE. For the States, a determination by the Secretary requires some State action, and what is required depends upon whether the Secretary issues an affirmative or a negative determination. If the Secretary were required to issue a determination after each addenda was published, the States would be constantly required to change their codes. This would affect the stability and certainty of State commercial building codes.

The statutory language in Section 304(b) of ECPA states that the Secretary is required to make a determination as to whether any successor standard to ASHRAE Standard 90.1–1989 will improve energy efficiency. (42 U.S.C. 6833(b)(2)(A)) The Secretary must publish a notice of this determination in

the **Federal Register**. The language does not require that DOE perform an independent economic analysis as part of the determination process. Section 304(b) of ECPA does not include any reference to language concerning economic justification.

However, Congress did address consideration of the technological feasibility and cost effectiveness of the Voluntary Building Energy Codes. Section 307 of ECPA requires DOE to participate in the ASHRAE process and to assist in determining the cost effectiveness and technical feasibility of the ASHRAE standard. (42 U.S.C. 6836) It also requires DOE to periodically review the economic basis of the voluntary building energy codes and participate in the industry process for review and modification, including seeking adoption of all technologically feasible and economically justified energy efficiency measures. (42 U.S.C. 6836(b))

Unlike Section 307 of ECPA (42 U.S.C. 6836), which specifically includes language concerning economic justification, Section 304 of ECPA does not include any reference to economic justification. "It is generally presumed that Congress acts intentionally and purposefully where it includes particular language in one section of a statute but omits it in another section." *Bates* v. *United States,* 522 U.S. 23, 29–30 (1997) (Citations omitted). Accordingly, the statutory scheme cannot be read to require an economic analysis as part of the determination process in Section 304(b) of ECPA.

The fact that the Section 304 of ECPA determination process does not require the Secretary to perform an economic analysis does not diminish the importance that the ASHRAE standards be technologically feasible and economically justified. However, the statute addresses these issues by directing DOE to participate in the ASHRAE process itself.

Accordingly, for all of these reasons, DOE has determined that it is not required to perform an economic analysis as part of its determination process in Section 304 of ECPA.

A significant change in DOE's approach from previous determinations was the use of specific buildings, as representative of a typical building type, in the development of building energy use intensity (EUI), without the scaling approach used in previous determinations. While the scaling approach used previously provides an assessment of the impact of building changes over a broad range of building sizes, DOE determined that the benefits did not outweigh the complexity of this approach for the purpose of a yes/no determination. The availability of commercial benchmark building models in EnergyPlus for a wide variety of building types and typical sizes was deemed sufficient for the preliminary quantitative determination analysis of Standard 90.1–2007.

One of the most significant commercial building end-uses regulated by energy codes and standards is lighting. For the preliminary quantitative analysis, each of DOE's building models have its internal lighting power density (LPD) determined using either the building area lighting compliance path or the space-by-space lighting compliance path from each ASHRAE Standard 90.1 edition. Building area LPDs are defined in ASHRAE Standard 90.1 as maximum lighting power allowance given in watts (W)/square foot (ft^2), for specific building types and do not consider internal variation in the spaces used within a given building. In contrast, space-by-space LPDs are a specific lighting power allowance in W/ft^2 for a given space type regardless of what building type it is in. Using the space-by-space method, the maximum allowed lighting power density for a given building is determined by summing up the product of the area fraction of each defined space-type within the building and the allowed lighting power within each space-type. The space-by-space method takes into account variation in the area devoted to different space types within a particular building. In addition, both Standard 90.1 editions allow for certain additional lighting power allowances when the space-by-space method is used.

The building models used for the preliminary quantitative analysis are specific building designs, in most cases with specific spaces defined within the prototype and with different lighting schedules for each space in accordance with its expected use. DOE chose to use the space-by-space method to establish the overall lighting power within these prototypes. In the case of one prototype, the strip mall retail building, DOE also included lighting power to reflect the typical values for additional lighting power allowances that would be allowed as display lighting under Standard 90.1–2004 and Standard 90.1–2007, assuming the same display area in the prototype. For building prototypes where space type distinctions were not deemed as important or significant, the building area LPD numbers were used (*e.g.,* office buildings).

The use of the space-by-space lighting method is a deviation from previous ASHRAE Standard 90.1 determinations where less detailed building models were utilized in the quantitative analysis. However, since the base LPD values for either path did not change between Standard 90.1–2004 and Standard 90.1–2007 and the change in the additional lighting power allowance was small and considered for only one building type, the choice of compliance path was deemed not to affect significantly the determination of energy savings. For each building type, Table 1shows the lighting compliance path used for the quantitative analysis and the average LPD used in the building models. Once selected, the same compliance path was used for LPD assumptions in both Standard 90.1 editions being compared. For each building prototype, the ASHRAE Standard 90.1–2004 and 90.1–2007 building area LPDs are shown for comparison alongside the values used in the quantitative analysis.

TABLE 1—INTERNAL LIGHTING POWER DENSITY USED IN BUILDING MODELS

Building type	Building prototype	Lighting compliance path used for simulation model	Simulation lighting power density W/ft²		Building area lighting power density W/ft²	
			90.1–2004	90.1–2007	90.1–2004	90.1–2007
Office	Small Office	Building Area	1.000	1.000	1.0	1.0
	Medium Office	Building Area	1.000	1.000	1.0	1.0
	Large Office	Building Area	1.000	1.000	1.0	1.0
Retail	Stand-Alone Retail	Space-by-Space	1.548	1.548	1.5	1.5
	Strip Mall	Space-by-Space	1.645	1.568	1.5	1.5
Education	Primary School	Space-by-Space	1.188	1.188	1.2	1.2
	Secondary School	Space-by-Space	1.134	1.134	1.2	1.2
Healthcare	Outpatient Health Care	Space-by-Space	1.094	1.094	1.0	1.0

TABLE 1—INTERNAL LIGHTING POWER DENSITY USED IN BUILDING MODELS—Continued

Building type	Building prototype	Lighting compliance path used for simulation model	Simulation lighting power densityW/ft²		Building area lighting power densityW/ft²	
			90.1–2004	90.1–2007	90.1–2004	90.1–2007
	Hospital	Space-by-Space	1.119	1.119	1.2	1.2
Lodging	Small Hotel	Space-by-Space	0.968	0.968	1.0	1.0
	Large Hotel	Building Area	1.000	1.000	1.0	1.0
Warehouse	Non-Refrigerated Warehouse	Space-by-Space	0.810	0.810	0.8	0.8
Food Service	Fast Food Restaurant	Space-by-Space	1.650	1.650	1.4	1.4
	Sit-Down Restaurant	Space-by-Space	1.855	1.855	1.6	1.6
Apartment	Mid-Rise Apartment	Space-by-Space	0.402	0.402	0.7	0.7

The building area LPDs are identical for both Standard 90.1 versions. The space-by-space LPDs tabulated by space type are also identical in both Standards. However, in addition, under the space-by-space compliance path are additional lighting power allowances provided for specific circumstances (primarily display lighting). Standard 90.1–2004 and Standard 90.1–2007 both have additional lighting power allowances for decorative lighting and for retail display lighting to highlight merchandise. Standard 90.1–2004 also provides a small additional lighting power allowance for video display terminal lighting. This latter was removed in Standard 90.1–2007 and considered seldom used in practice. The additional lighting power for decorative lighting was not changed between standards. The additional lighting power allowance for retail display lighting was changed to use four specific merchandise categories described by lists of merchandise. Only two general merchandise categories were used in Standard 90.1–2004. DOE collected limited information on display areas in a small sample of retail buildings and made a conservative estimate that for the strip mall prototype, approximately 13 percent of the entire building area might qualify for the display lighting power allowances. DOE assumed that the additional lighting power allowance for that display area was reduced from an average of 2.75 W/ft² (based on an average of the two additional lighting power display categories in Standard 90.1–2004) to 2.15 W/ft² (based on an average of the middle two additional lighting power display categories in Standard 90.1–2007). This assumption resulted in a 4.6 percent reduction in whole building LPD for this prototype. DOE believes that this result is likely a conservative estimate of the energy savings from this additional lighting power change.

The final space-by-space calculations used in the quantitative analysis yield LPDs that differ from the LPDs determined from the building area compliance paths. For all building models other than restaurants and the mid-rise apartment, the lighting power densities used are between 7 percent lower to 8 percent higher than LPD from the building area compliance path. The LPDs modeled for the two restaurant prototypes are 16 to 18 percent higher than the LPD from the building area compliance path in either standard, a direct result of the relative ratio of kitchen to dining areas used in these prototypes compared with that assumed in the development of the ASHRAE 90.1 building area LPD values. All else being equal, the impact of higher LPD assumptions is to result in a somewhat greater cooling load and lower heating load in these prototypes.

The building average LPD modeled for the mid-rise apartment prototype is 43 percent lower than the tabulated building area LPD value shown in both versions of Standard 90.1. However, the lighting section in both versions states that lighting in living units (*i.e.,* apartments within multi-family housing) is not within the scope of Standard 90.1, implying that the building area method value should be applied only to common space within multi-family buildings and would not be suitable for the modeling of building lighting power. To generate the LPD for the mid-rise apartment building, DOE used the space-by-space LPD allowances in Standard 90.1. The mid-rise apartment prototype consists of two defined space types: Office-enclosed and corridors; and the individual apartment units. Standard 90.1 has space-by-space LPDs for the office and corridor spaces. DOE assumed a value of 0.36 W/ft² for the LPD inside the apartments based on the lighting power assumptions found in the DOE Residential Building America Research Benchmark.

Identical lighting schedules were used for the Standard 90.1–2004 and Standard 90.1–2007 building prototypes, as no addenda to Standard 90.1–2004 affected the scheduled usage.

In addition to the internal lighting power density, Standard 90.1 has requirements for exterior lighting power. These requirements are identical between Standard 90.1–2004 and Standard 90.1–2007 and are based on the application of specific exterior lighting power densities allowances to defined exterior surfaces types (*e.g.,* building entrances or parking areas). In order for the building prototypes to better reflect energy use in actual buildings, specific assumptions for the amount of these defined exterior surfaces present for each building prototype were developed from detailed building plan data. All exterior lighting was assumed to be controlled by astronomical time clock for the prototypes.

Table 2 shows the exterior lighting power assumption, expressed in W/ft² of building area.

TABLE 2—EXTERIOR LIGHTING POWER FOR BOTH 90.1–2004 AND 90.1–2007 BUILDING PROTOTYPES

Building type	Building prototype	Prototype floor area ft²	Prototype exterior lighting power (normalized to W/ft² of building floor area)			
			Parking lot	Doors	Façade	Total
Office	Small Office	5,502	0.243	0.039	0.015	0.297
	Medium Office	53,628	0.243	0.010	0.015	0.268
	Large Office	498,588	0.098	0.002	0.026	0.126

TABLE 2—EXTERIOR LIGHTING POWER FOR BOTH 90.1–2004 AND 90.1–2007 BUILDING PROTOTYPES—Continued

Building type	Building prototype	Prototype floor area ft²	Prototype exterior lighting power (normalized to W/ft² of building floor area)			
			Parking lot	Doors	Façade	Total
Retail	Stand-Alone Retail	24,692	0.213	0.063	0.020	0.297
	Strip Mall	22,500	0.282	0.095	0.030	0.407
Education	Primary School	73,959	0.030	0.039	0.004	0.073
	Secondary School	210,887	0.042	0.021	0.003	0.067
Healthcare	Outpatient Health Care	40,946	0.304	0.042	0.007	0.353
	Hospital	241,501	0.048	0.007	0.014	0.069
Lodging	Small Hotel	43,202	0.117	0.006	0.018	0.140
	Large Hotel	122,120	0.109	0.004	0.047	0.159
Warehouse	Non-Refrigerated Warehouse	52,045	0.058	0.090	0.003	0.151
Food Service	Fast Food Restaurant	2,501	0.607	0.024	0.065	0.697
	Sit-Down Restaurant	5,502	0.607	0.027	0.037	0.672
Apartment	Mid-Rise Apartment	33,741	0.127	0.000	0.011	0.138

Because the exterior lighting power densities did not change between Standard 90.1–2004 and Standard 90.1–2007, the inclusion of exterior lighting does not affect DOE's determination of energy savings; however, as it affects the baseline building energy use, it does have an impact on the percentage savings calculated for each building type.

DOE's preliminary quantitative determination was carried out using the EnergyPlus building simulation tool. EnergyPlus was selected for this determination for several reasons. First, DOE believes that the underlying calculation methods and the wide variety of systems available in EnergyPlus version 3.0, used for this preliminary determination, are sufficiently advanced over those in BLAST and DOE2 to justify the use of EnergyPlus. Quoting from DOE's EnergyPlus Web site (*http://apps1.eere.energy.gov/buildings/energyplus/*), "While originally based on the most popular features and capabilities of BLAST and DOE–2, EnergyPlus includes many innovative simulation capabilities such as time steps of less than an hour, modular systems and plant integrated with heat balance-based zone simulation, multi-zone air flow, thermal comfort, water use, natural ventilation, and photovoltaic systems". Second, DOE had developed a set of commercial building prototypes in EnergyPlus that could reasonably form the basis of a national-scale simulation analysis. DOE has received and responded to much feedback from the ASHRAE Standard 90.1 simulation working group and other simulation experts on how to improve the representativeness of these building models. Finally, DOE believes that a critical mass of EnergyPlus users and sufficiently broad range of DOE contractor experience with the tools meant that models could be reviewed and results examined sufficiently for the purpose of the preliminary determination.

C. Summary of the Comparative Analysis

DOE carried out both a broad quantitative analysis and a detailed textual analysis of the differences between the requirements and the stringencies in the 2004 and the 2007 editions of Standard 90.1.

1. Quantitative Analysis

The quantitative comparison of ASHRAE Standard 90.1–2007 was carried out using whole-building energy simulations of buildings built to both ASHRAE Standard 90.1–2004 and ASHRAE Standard 90.1–2007. DOE simulated 15 representative building types in 15 U.S. climate locations, each climate location selected to be representative of one of the 15 U.S. climate zones used in the definition of building energy code criteria in ASHRAE Standard 90.1–2004 and Standard 90.1–2007. The simulations were developed using specific building prototypes based on the DOE commercial benchmark building models developed for DOE's Net-Zero Energy Commercial Building Initiative.

For each building prototype simulated in each climate the energy use intensities (EUI) by fuel type and by end-use were extracted. These EUIs by fuel type for each building were then weighted to national average EUI figures using weighting factors based on the relative square footage of construction represented by that prototype in each of the 15 climate regions. These weighting factors were based on commercial building construction starts data for a five year period from 2003 to 2007. The source of data was the McGraw-Hill Construction Projects Starts Database (MHC). The MHC database captures over 90% of new commercial construction in any given year and the collection process is independently monitored to ensure the coverage of most of the commercial construction in the U.S. The data is used by other federal agencies such as the U.S. Census Bureau, the Federal Reserve and the U.S. Department of Health and Human Services (HHS) for characterizing building construction in the U.S. For the purpose of developing construction weighting factors, the strength of this data lies in the number of samples, the characterization of each sample in terms of building end-use and size and number of stories, the frequency of data collection, and the detailed location data. In addition, the MHC database can be used to identify multi-family residential buildings that would be covered under ASHRAE Standard 90.1.

DOE's prototypes reflect the use of two fuel types, electricity and natural gas. Using the weighting factors, DOE was able to preliminarily establish an estimate of the relative reduction in building energy use, as determined by a calculated reduction in weighted average site EUI for each building prototype. Site energy refers to the energy consumed at the building site. In a corresponding fashion, DOE was also able to calculate a reduction in terms of weighted average primary EUI and in terms of weighted average energy cost intensity (ECI) in $/sf of building floorspace. Primary energy as used here refers to the energy required to generate and deliver energy to the site. To estimate primary energy, all electrical energy use intensities were first converted to primary energy using a factor of 10,800 Btus primary energy per kWh (based on the 2009 estimated values reported in Table 2 of the EIA Annual Energy Outlook, 2009, April 2009 release available at *http://*

www.eia.doe.gov/oiaf/aeo/). Natural Gas EUIs in the prototypes were converted to primary energy using a factor of 1.089 Btus primary energy per Btu of site natural gas use (based on the 2009 national energy use estimated shown in Table 2 of the AEO 2009). This natural gas source energy conversion factor was calculated by dividing the sum of all natural gas usage, including usage for natural gas field production, leases, plant fuel, and pipeline (compression) supply by delivered gas energy to the four primary energy sectors (residential, commercial, industrial, and transportation).

To estimate the reduction in energy cost index, DOE relied on national average commercial building energy prices of $0.1028/kWh of electricity and $11.99 per 1000 cubic feet ($1.163/therm) of natural gas, based on EIA statistics for 2008 (the last complete year of data available in Table 5.3 Average Retail Price of Electricity to Ultimate Consumers: Total by End-Use Sector for the commercial sector—available from EIA at *http://www.eia.doe.gov/cneaf/electricity/epm/table5_3.html* and from the EIA Natural Gas Annual Summary for the commercial sector available at *http://tonto.eia.doe.gov/dnav/ng/ng_pri_sum_dcu_nus_a.htm*.) DOE recognizes that actual fuel costs will vary somewhat by building type within a region, and will in fact vary more across regions. Nevertheless, DOE believes that the use of simple national average figures illustrates whether there will be energy cost savings sufficient for the purposes of the DOE preliminary determination.

Energy use intensities developed for each representative building type were weighted by total national square footage of each representative building type to provide an estimate of the difference between the national energy use in buildings constructed to both editions of the Standard 90.1. Note that the 15 buildings types used in the preliminary determination reflect approximately 80% of the total square footage of commercial construction including multi-family buildings greater than three stories covered under ASHRAE Standard 90.1.

Note that only differences between new building requirements were considered in this quantitative analysis. Changes to requirements in the 2007 edition that pertain to existing buildings only are addressed in the detailed textual analysis only.

Both the 2007 and 2004 editions address additions and renovations to existing buildings. Since DOE has preliminarily found insufficient data to characterize renovations in terms of what energy using features are utilized, DOE has not determined that the results obtained from the whole building prototypes used would reasonably reflect the EUI benefits that would accrue to renovated floor space. For this reason, renovated floor space is not included in the DOE weighting factors. Building additions on the other hand are believed to be substantially equivalent to new construction. For this reason, FW Dodge construction data on additions has been incorporated into the overall weighting factors. Floor space additions reflect approximately 13 percent of new construction floor space based on data captured in the FW Dodge dataset.

The quantitative analysis assumed the same base ventilation level for buildings constructed to Standard 90.1–2004 and Standard 90.1–2007. Neither edition of Standard 90.1 specifies ventilation rates for commercial building construction. ASHRAE has a separate ventilation standard for commercial construction, ASHRAE Standard 62.1 *Ventilation for Acceptable Indoor Air Quality.* This standard is cited only in a few exceptions within the mechanical sections of either ASHRAE 90.1–2004 or ASHRAE 90.1–2007, with each edition referencing a different version of standard 62.1. ASHRAE 90.1–2004 lists ASHRAE 62.1–1999 in its table of references. ASHRAE 90.1–2007 lists ASHRAE 62.1–2004 in its table of references. The latest version of ASHRAE Standard 62 is Standard 62.1–2007.

Ventilation rates can have significant impact on the energy use of commercial buildings. States and local jurisdictions typically specify the ventilation requirements for buildings within their respective building codes and can set these requirements independent of the energy code requirements. Because of the limited reference to ventilation within either the 2004 or the 2007 edition of ASHRAE 90.1, the requirements that States certify that their energy codes meet or exceed the 2007 edition of ASHRAE 90.1 would in general not require modification of State ventilation code requirements. However, in many cases, ventilation requirements can be traced back to requirements found in one or another version of ASHRAE Standard 62.1. For the purpose of the quantitative analysis, DOE assumed ventilation rate for the simulation prototypes based on the requirements ASHRAE 62.1–2004. DOE also performed a sensitivity analysis which calculated the quantitative impacts assuming a ventilation rate based on ASHRAE Standard 62.1–1999.

The quantitative analysis of the energy consumption of buildings built to Standard 90.1–2007, as compared with buildings built to Standard 90.1–2004, indicates national primary energy savings of approximately 3.7 percent of commercial building energy consumption based on the weighting factors for the 15 buildings simulated. Site energy savings are estimated to be approximately 4.4 percent. Using national average fuel prices for electricity and natural gas DOE estimated a reduction in energy expenditures of 3.8 percent would result from the use of ASHRAE Standard 90.1–2007 as compared to ASHRAE Standard 90.1–2004. As identified previously, these estimated savings figures do not include energy savings from equipment or appliance standards that would be in place due to Federal requirements regardless of their presence in the ASHRAE Standard 90.1–2007.

We also performed a detailed analysis of the differences between the textual requirements and stringencies of the two editions of Standard 90.1 in the scope of the standard, the building envelope requirements, the building lighting and power requirements, and the building mechanical equipment requirements.

DOE works with the National Institute of Standards and Technology's (NIST) Building and Fire Research Laboratory on a variety of projects related to high-performance buildings. NIST is the main overseer of the Building Life Cycle Cost (BLCC) software used to support 10 CFR 436 and Federal life cycle costing requirements within the Federal sector. DOE and NIST co-chair the Building Technology Research and Development (BT R&D) committee under the Office of Science and Technology Policy (OSTP) as required under Section 913 of the Energy Policy Act of 2005. However, DOE does not typically work with NIST on determinations of energy efficiency of building standards. The technical work on DOE's determinations is provided by staff at Pacific Northwest National Laboratory's Building Energy Codes Program.

2. Detailed Textual Analysis

The emphasis of our detailed requirement and stringency analysis was on looking at the specific changes that ASHRAE made in going from Standard 90.1–2004 to Standard 90.1–2007. ASHRAE publishes changes to their standards as addenda to the preceding standard and then bundles all the addenda together to form the next edition. ASHRAE processed 44 addenda to Standard 90.1–2004 to create Standard 90.1–2007. Each of these

addenda was evaluated by DOE in preparing this preliminary determination.

In addition, each standard has multiple ways to demonstrate compliance, including a prescriptive set of requirements by section of the standard, various tradeoff approaches within those same sections, and a whole building performance method (Energy Cost Budget; "ECB"). For each addendum we identified whether it applies to the prescriptive requirements, or one of the tradeoff paths provided for in the envelope, lighting, or mechanical sections, or the ECB whole building performance path. For each addendum DOE identified the impact on the stringency for that path to compliance.

D. Preliminary Determination Statement

DOE's review and evaluation indicates that there are significant differences between the 2004 edition and the 2007 edition. Our overall preliminary conclusion is that the 2007 edition will improve the energy efficiency of commercial buildings. However, DOE identified two changes in textual requirements that taken alone appear to represent a reduction in stringencies and could decrease energy efficiency. The two changes are addendum "p" broadens the implicit definition of "visually impaired" as used in exceptions provided in the standard which allow for lighting power to not be included in the calculated lighting power densities subject to maximum limits and addendum "av" which provides for an explicit shading credit allowed for louvered projections, where such a credit was not explicitly provided for in 90.1–2004. DOE believes that in these cases, the reduction in stringency was not considered a major impact. For the other addenda, DOE preliminarily determined that the remaining addenda either represented no change in stringency, or indicated a positive change in stringency corresponding to improved efficiency. Overall, DOE preliminarily concluded the changes in textual requirements and stringencies are "positive," in the sense that they would improve energy efficiency in commercial construction. Our quantitative analysis preliminarily shows that for the 15 prototype buildings, a weighted average national improvement in new building efficiency of 3.7 percent, when considering source energy, and by 4.4 percent, when considering site energy. As both the 2004 and 2007 editions cover existing buildings, to the extent that these standards are applied to existing buildings in retrofits or in new construction addition, the 2007 edition should improve the efficiency of the existing building stock. DOE has, therefore, preliminarily concluded that Standard 90.1–2007 receive an affirmative determination under Section 304(b) of the ECPA.

II. Results of Quantitative Analysis

Tables 3 and 4 show the aggregated energy use and associated energy savings by building type for the 15 building prototypes analyzed and on an aggregated national basis for the 2004 and 2007 editions, respectively. For each edition of Standard 90.1, the national building floor area weight used to calculate the national impact on building EUI or building ECI, is presented. The national average electricity and gas building energy use intensity is presented separately for each building prototype analyzed, electricity being the predominant energy usage in all prototypes. National-average site energy use intensities ranges from over five hundred Btu per square foot annually for the Fast Food prototype to approximately 28 Btu per square foot annually for the Non-refrigerated Warehouse type. Source energy use intensities and building energy cost intensities ($/sf-yr) are also presented. Further details on the quantitative analysis can be found in the full preliminary quantitative analysis report available at *http://www.energycodes.gov/implement/determinations_90.1-2007.stm.*

TABLE 3—ESTIMATED ENERGY USE INTENSITY BY BUILDING TYPE—2004 EDITION

Building type	Building prototype	Building type floor area weight %	Whole building EUI data for building population kBtu/ft²-yr				
			Electric EUI	Gas EUI	Site EUI	Source EUI	ECI $/ft²-yr
Office	Small Office	6.16	35.6	3.6	39.2	116.3	$1.11
	Medium Office	6.64	42.1	4.2	46.3	137.5	1.32
	Large Office	3.65	34.4	5.7	40.1	114.6	1.10
Retail	Stand-Alone Retail	16.76	56.1	15.0	71.1	192.6	1.86
	Strip Mall	6.23	55.2	20.1	75.2	194.8	1.90
Education	Primary School	5.49	47.9	23.5	70.5	175.3	1.72
	Secondary School	11.38	43.7	19.5	62.4	157.8	1.54
Healthcare	Outpatient Health Care	4.80	106.7	54.7	153.2	392.6	3.85
	Hospital	3.79	96.3	57.6	153.1	362.7	3.57
Lodging	Small Hotel	1.89	48.3	26.1	74.3	179.0	1.76
	Large Hotel	5.44	68.5	84.4	152.3	301.2	3.04
Warehouse	Non-Refrigerated Warehouse	18.36	14.5	10.7	25.2	56.7	0.56
Food Service	Fast-Food Restaurant	0.64	226.5	326.1	527.9	1043.5	10.62
	Sit-Down Restaurant	0.72	179.3	202.1	370.5	770.2	7.75
Apartment	Mid-Rise Apartment	8.04	32.5	10.1	42.7	113.1	1.10
National		100	47.0	22.2	68.4	171.1	1.67

TABLE 4—ESTIMATED ENERGY USE INTENSITY BY BUILDING TYPE—2007 EDITION

Building type	Building prototype	Building type floor area weight %	Whole building EUI data for building population kBtu/ft²-yr				
			Electric EUI	Gas EUI	Site EUI	Source EUI	ECI $/ft²-yr
Office	Small Office	6.16	35.3	3.3	38.6	115.2	$1.10
	Medium Office	6.64	40.2	4.3	44.5	131.5	1.26
	Large Office	3.65	34.3	4.6	38.9	113.2	1.09
Retail	Stand-Alone Retail	16.76	51.4	13.3	64.7	176.1	1.70

TABLE 4—ESTIMATED ENERGY USE INTENSITY BY BUILDING TYPE—2007 EDITION—Continued

Building type	Building prototype	Building type floor area weight %	Whole building EUI data for building population kBtu/ft²-yr				
			Electric EUI	Gas EUI	Site EUI	Source EUI	ECI $/ft²-yr
	Strip Mall	6.23	52.3	16.9	69.2	182.6	1.77
Education	Primary School	5.49	46.7	19.9	65.6	167.9	1.64
	Secondary School	11.38	42.5	16.6	58.4	151.3	1.47
Healthcare	Outpatient Health Care	4.80	102.1	52.8	147.0	376.4	3.69
	Hospital	3.79	95.8	56.2	151.2	359.7	3.54
Lodging	Small Hotel	1.89	46.5	24.7	71.2	172.1	1.69
	Large Hotel	5.44	69.1	79.1	147.6	298.0	3.00
Warehouse	Non-Refrigerated Warehouse	18.36	14.5	10.6	25.2	56.6	0.56
Food Service	Fast-Food Restaurant	0.64	222.1	319.5	516.9	1023.0	10.41
	Sit-Down Restaurant	0.72	177.5	200.0	366.7	762.4	7.67
Apartment	Mid-Rise Apartment	8.04	31.8	9.0	40.8	109.8	1.06
National		100	45.5	20.6	65.4	164.8	1.61

Table 5 presents the estimated percent energy savings (based on change in EUI) between the 2004 and 2007 editions. Overall, considering those differences that can be reasonably quantified, the 2007 edition is expected to increase the energy efficiency of commercial buildings. Numbers in Table 5 represent percent energy savings; thus, negative numbers represent increased energy use. There is a decrease in gas EUI for all building types except medium office. This decrease in gas EUI represents the majority of the national site energy savings from the 2007 edition. There is a decrease in electrical EUI for all building prototypes except for large hotel.

TABLE 5—ESTIMATED PERCENT ENERGY SAVINGS WITH 2007 EDITION—BY BUILDING TYPE

Building type	Building prototype	Building type floor area weight %	Percent savings in whole building energy use intensity (%)				
			Electric EUI	Gas EUI	Site EUI	Source EUI	ECI
Office	Small Office	6.16	0.8	9.0	1.5	1.0	1.1
	Medium Office	6.64	4.6	−2.3	3.9	4.4	4.3
	Large Office	3.65	0.3	18.0	2.8	1.2	1.4
Retail	Stand-Alone Retail	16.76	8.3	11.2	9.0	8.6	8.6
	Strip Mall	6.23	5.2	15.6	8.0	6.3	6.5
Education	Primary School	5.49	2.5	15.4	6.9	4.2	4.6
	Secondary School	11.38	2.6	14.8	6.4	4.1	4.4
Healthcare	Outpatient Health Care	4.80	4.2	3.4	4.0	4.1	4.1
	Hospital	3.79	0.6	2.3	1.2	0.8	0.9
Lodging	Small Hotel	1.89	3.6	5.2	4.2	3.9	3.9
	Large Hotel	5.44	−1.0	6.3	3.0	1.1	1.4
Warehouse	Non-Refrigerated Warehouse	18.36	0.0	0.7	0.3	0.2	0.2
Food Service	Fast Food Restaurant	0.64	1.9	2.0	2.1	2.0	2.0
	Sit-Down Restaurant	0.72	1.0	1.0	1.0	1.0	1.0
Apartment	Mid-Rise Apartment	8.04	2.1	11.5	4.3	2.9	3.1
National		100	3.2	6.9	4.4	3.7	3.8

III. Discussion of Detailed Textual Analysis

A qualitative analysis of all addenda to ANSI/ASHRAE/IESNA Standard 90.1–2004 that were included in ANSI/ASHRAE/IESNA Standard 90.1–2004 was conducted. All 44 addenda processed by ASHRAE in the creation of Standard 90.1–2007 from Standard 90.1–2004 were evaluated by DOE for their impact on energy efficiency. DOE preliminarily determined whether that addenda would have a positive, neutral, or negative impact on overall building efficiency. Table S–1 shows the potential number of positive and negative changes for each section of Standard 90.1.

The preliminary results of the textual analysis indicate that the majority of changes (30 of the total of 44 listed) were neutral. These include editorial changes, changes to reference standards, changes to alternative compliance paths, and other changes to the text of the standard that may improve the usability of the standard, but do not generally improve or degrade the energy efficiency of building. There were 11 changes that were evaluated as having a positive impact on energy efficiency and 2 changes that were evaluated as having a negative impact on energy efficiency.

The 2 negative impacts on energy efficiency include:

1. Addendum p—Expanded lighting power exceptions allowed for use with the visually impaired; and
2. Addendum av—Allowance for louvered overhangs.

The 11 positive impacts on energy efficiency include:

1. Addendum c—Increased requirement for building vestibules;
2. Addendum h—Removal of data processing centers from exceptions to HVAC requirements;
3. Addendum q—Removal of hotel room exceptions to HVAC requirements;
4. Addendum v—Modification of demand controlled ventilation requirements;
5. Addendum ac—Modification of fan power limitations;

6. Addendum ai—Modification of retail display lighting requirements;
7. Addendum ak—Modification of cooling tower testing requirements;
8. Addendum an—Modification of commercial boiler requirements;
9. Addendum ar—Modification of part load fan requirements;
10. Addendum as—Modification of opaque envelope requirements; and
11. Addendum at—Modification of fenestration envelope requirements.

The results of the textual analysis are shown in Table 6. Overall, the potential positive impacts outweigh the potential negative impacts in a simple numerical comparison.

TABLE 6—RESULTS OF TEXTUAL ANALYSIS BY SECTION OF STANDARD 90.1

Section of standard	Number of changes made to section	Number of positive (energy saving) changes	Number of unquantifiable changes	Number of neutral (no energy saving) changes	Number of negative (energy increasing) changes
Title, Purpose, and Scope	0	0	0	0	0
Definitions	0	0	0	0	0
Administration and Enforcement	0	0	0	0	0
Envelope and Normative Appendices	11	3	0	7	1
HVAC Equipment and Systems	13	6	0	7	0
Service Water Heating	0	0	0	0	0
Power	0	0	0	0	0
Lighting	9	2	1	5	1
Energy Cost Budget and Appendix G Performance Rating Method	7	0	0	7	0
Normative and Informative References	4	0	0	4	0
Overall	44	11	1	30	2

IV. Filing Certification Statements With DOE

A. Review and Update

If today's determination is finalized, each State would be required to review and update, as necessary, the provisions of its commercial building energy code to meet or exceed the provisions of the 2007 edition of Standard 90.1. (42 U.S.C. 6833(b)(2)(B)(i)) This action would be required to be taken not later than two years from the date of the final determination notice, unless an extension is provided.

The DOE recognizes that some States do not have a State commercial building energy code or have a State code that does not apply to all commercial buildings. If local building energy codes regulate commercial building design and construction rather than a State code, the State must review and make all reasonable efforts to update as authorized those local codes to determine whether they meet or exceed the 2007 edition of Standard 90.1. States may base their certifications on reasonable actions by units of general purpose local government. Each such State must still review the information obtained from the local governments and gather any additional data and testimony for its own certification.

States should be aware that the DOE considers high-rise (greater than three stories) multi-family residential buildings, hotel, motel, and other transient residential building types of any height as commercial buildings for energy code purposes. Consequently, commercial buildings, for the purposes of certification, would include high-rise (greater than three stories) multi-family residential buildings, hotel, motel, and other transient residential building types of any height.

B. Certification

Section 304(b) of ECPA requires each State to certify to the Secretary of Energy that it has reviewed and updated the provisions of its commercial building energy code regarding energy efficiency to meet or exceed the Standard 90.1–2007 edition. (42 U.S.C. 6833(b)) The certification must include a demonstration that the provisions of the State's commercial building energy code regarding energy efficiency meet or exceed Standard 90.1–2007. If a State intends to certify that its commercial building energy code already meets or exceeds the requirements of Standard 90.1–2007, the State should provide an explanation of the basis for this certification, *e.g.,* Standard 90.1–2007 is incorporated by reference in the State's building code regulations. The chief executive of the State (*e.g.,* the Governor) or a designated State official, such as the Director of the State energy office, State code commission, utility commission, or equivalent State agency having primary responsibility for commercial building energy codes, would provide the certification to the Secretary. Such a designated State official would also provide the certifications regarding the codes of units of general purpose local government based on information provided by responsible local officials.

DOE does list the States that have filed certifications and those that have or have not adopted new codes. Once a State has adopted a new commercial code, DOE typically provides software, training, and support for the new code as long as the new code is based on the national model codes (in this case, ASHRAE Standard 90.1). Some States develop their own codes that are only loosely related to the national model codes and DOE does not typically provide technical support for those codes. However, DOE does provide grants to these States through grant programs administered by the National Energy Technology Laboratory (NETL). Each state is unique in how they go about adopting and enforcing their energy codes.

C. Request for Extensions To Certify

Section 304(c) of ECPA, requires that the Secretary permit an extension of the deadline for complying with the certification requirements described above, if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress toward meeting its certification obligations. (42 U.S.C. 6833(c)) Such demonstrations could include one or both of the following: (1) A plan for response to the requirements stated in section 304; or (2) a statement that the State has appropriated or requested funds (within State funding procedures) to implement a plan that would respond to the

requirements of Section 304 of ECPA. This list is not exhaustive.

V. Regulatory Analysis

A. Review Under Executive Order 12866

Today's action is a significant regulatory action under section 3(f)(1) of Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735; October 4, 1993). Accordingly, today's action was reviewed by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," (67 FR 53461; August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.* Today's action on the determination of improved energy efficiency between the ASHRAE 2004 and 2007 of Standard 90.1 would require States to undertake an analysis of their respective building codes. Today's action does not impact small entities. Therefore, the analytical requirements of the Regulatory Flexibility Act do not apply.

C. Review Under the National Environmental Policy Act of 1969

DOE has preliminarily determined that today's action is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6. of Appendix A to subpart D, 10 CFR part 1021. That Categorical Exclusion applies to actions that are strictly procedural, such as rulemaking establishing the administration of grants. Today's action is required by Title III of ECPA, as amended, which provides that whenever the Standard 90.1–1989, or any successor to that code, is revised, the Secretary must make a determination, not later than 12 months after such revision, whether the revised code would improve energy efficiency in commercial buildings and must publish notice of such determination in the **Federal Register**. (42 U.S.C. 6833(b)(2)(A)) If the Secretary determines that the revision of Standard 90.1–1989 or any successor thereof, improves the level of energy efficiency in commercial buildings then no later than two years after the date of the publication of such affirmative determination, each State is required to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency with respect to the revised or successor code. (42 U.S.C. 6833(b)(2)(B)(i)) If the Secretary makes a determination that the revised standard will not improve energy efficiency in commercial buildings then State commercial codes shall meet or exceed the last revised standard for which the Secretary has made a positive determination. (42 U.S.C. 6833(b)(2)(B)(ii)) Therefore, DOE has preliminarily determined that the Secretary's determination is not a major federal action that would have direct environmental impacts. Accordingly, DOE has not prepared an environmental assessment or an environmental impact statement.

D. Review Under Executive Order 13132, "*Federalism*"

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that pre-empt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has reviewed the statutory authority. Congress found that:

(1) Large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal voluntary performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) The failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features. (42 U.S.C. 6831)

Pursuant to Section 304(b) of ECPA, DOE is statutorily required to determine whether the most recent versions of ASHRAE 90.1 would improve the level of energy efficiency in commercial buildings as compared to the previous version. If DOE makes a positive determination, the statute requires each State to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency with respect to the revised or successor codes. (42 U.S.C. 6833(b)(2)(B)(i)).

Executive Order 13132, 64 FR 43255 (August 4, 1999) requires meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications unless "funds necessary to pay the direct costs incurred by the State and local governments in complying with the regulation are provided by the Federal Government." (62 FR 43257) Pursuant to Section 304(e) of ECPA, the DOE Secretary is required to "provide incentive funding to States to implement the requirements of [Section 304], and to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with such codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes." (42 U.S.C. 6833(e)) Therefore, consultation with States and local officials regarding this preliminary determination was not required.

However, DOE notes that State and local governments were invited to participate in the development Standard 90.1–2007. Standard 90.1–2007, was developed in a national American National Standards Institute consensus process open to the public and in which State and local governments participate along with DOE and other interested parties. It is the product of a series of amendments to the prior addition of the

standard. Each addendum is put out for national public review. Anyone may submit comments, and in the process comments were received from State and local governments. Comments on the addendum are received, reviewed and resolved through a consensus process. Members of the standards project committee have included representatives of State and local governments.

DOE annually holds a national building energy codes workshop at which the progress on development of the model energy codes are presented, along with discussion and sharing of problems and successes in adoption, implementation, and enforcement of building energy codes. The predominate attendance of these workshops are State and local officials responsible for building energy codes. They are consistently encouraged and urged to participate in the model building energy code processes, which will be the subject of DOE's next determinations under section 304 of ECPA. Thus, State and local officials have had the opportunity to participate in the development of the standard through the ASHRAE process. Some have done so.

Similarly, the comments of States and local governments about provisions of the developing Standard 90.1–2007 were received in formal comment periods and heard and addressed in ASHRAE committee deliberations open to the public. In addition, concerns and issues about adoption, implementation and enforcement issues were presented and discussed at informal sessions at the Department's annual national workshops on building energy codes. DOE believes that the above process has given State and local jurisdictions extensive opportunity to comment on and express their concerns on Standard 90.1–2007, the subject of this determination.

On issuance of this determination that Standard 90.1–2007 would improve the energy efficiency of commercial buildings, ECPA requires the States to certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency to meet or exceed the requirements of Standard 90.1–2007. States are given broad freedom to either adopt Standard 90.1–2007 or develop their own code that meets equivalent energy efficiency.

E. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of Title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of $100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

If today's determination is finalized, each State would be required under Section 304 of ECPA to review and update, as necessary, the provisions of its commercial building energy code to meet or exceed the provisions of the 2007 edition of Standard 90.1. (42 U.S.C. 6833(b)(2)(B)(i)) Section 304 of ECPA requires State action in response to a positive determination by DOE. While the processes that States may undertake to update their codes vary widely, as a general rule a State at a minimum would need to:

- Evaluate Standard 90.1–2007 using the background material provided by DOE
- Compare the existing State commercial building energy code to Standard 90.1–2007 to see if an update is needed
- Update the State commercial building energy code to meet or exceed Standard 90.1–2007.

DOE evaluated the potential for State activity to exceed $100 million in any one year. The approach looked at the 3 steps for minimum activity listed in the previous paragraph—evaluate, compare and update. A fourth potential step of providing training on the new code was also considered as some States may consider training on the new code to be an integral part of adopting the new code. For the 3 steps of minimum activity, DOE estimated the following:

Evaluate Standard 90.1–2007—DOE estimated a minimum of 8 hours of review per State and a maximum review time of 500 hours of review per State (12.5 work weeks). The minimum review time of 8 hours (one day) is the estimated minimum amount of time can see states taking to review Standard 90.1–2007. Simply reading and reviewing the **Federal Register** notice, the qualitative analysis document and the quantitative analysis document will take the average person several hours. Deciding on whether or not to upgrade to Standard 90.1–2007 may take another couple of hours. The maximum review time of 500 hours (62.5 day, 3 working months) upper limit was estimated as the amount of time that a state that was not familiar with energy codes at all or which has a particularly arduous review process within the state would take to review these documents.

(1) A cost per hour of $100 per hour was assumed based on actual rates proposed in subcontracts associated with compliance studies funded by DOE. The average rate calculated from these subcontracts for 10 types of building officials from 6 states was $93.41, so DOE chose to round this up to $100 per hour.

a. Low estimate—8 hours * 50 states * $100 per hour = $40,000
b. High estimate—500 hours * 50 states * $100 per hour = $2,500,000

(2) Compare Standard 90.1–2007 to existing state code—Assuming the State is familiar with its code and has performed an effective evaluation of Standard 90.1 in the first step, the range of potential costs should be similar to Step 1. (See Step 1 for discussion of 8 hour and 500 hour times and $100 per hour cost estimate).

a. Low estimate—8 hours * 50 states * $100 per hour = $40,000
b. High estimate—500 hours * 50 states * $100 per hour = $2,500,000

(3) Update the State Codes to meet or exceed Standard 90.1–2007—Adopting a new energy code could be as simple as updating an order within the State, or it could be very complex involving hearings, testimony, etc. Again, the range of potential costs should be similar to Step 1. (See Step 1 for discussion of origin of 8 hour and 500 hour times and $100 per hour cost estimate).

a. Low estimate—8 hours * 50 states * $100 per hour = $40,000
b. High estimate—500 hours * 50 states * $100 per hour = $2,500,000

The potential range of total costs to States to under these assumptions would be $120,000 to $7.5 million. This range is well below the $100 million threshold in the Unfunded Mandates Act. DOE has also considered potential costs were States to include provide training on the new code.

(4) Train Code officials on New Code—Assuming every jurisdiction has at least one person that needs to be trained on energy code. There are roughly 40,000 general purpose local governments, or jurisdictions, in the U.S. The total number of jurisdictions in the U.S. that enforce energy codes is not known with any degree of certainty. The National League of Cities publishes an estimate of the number of local governments in the U.S. at *http://www.nlc.org/about_cities/cities_101/142.aspx.* Their summary indicates the following:

- 19,429 Municipal governments;
- 16,504 Town or Township governments;
- 3,034 County governments;
- 13,506 School districts; and
- 35,052 Special district governments.

DOE believes it is reasonable to assume that all of the municipal governments, town or township governments, and county governments could be required to acquire training on Standard 90.1–2007 in order to enforce this standard as an adopted energy code. In addition, the 50 state governments would be required to acquire training. This number adds up to 19,429 + 16,504 + 3,034 + 50 = 38,667. Another widely mentioned estimate of the total number of code adopting jurisdictions in the U.S. is 44,000. This number is based on the National Conference of States on Building Codes and Standards (NCBCS). See, for example, *http://www.ncsbcs.org/newsite/New%20Releases/RW_Presentation_060602.htm.* Both these estimates are in reasonable agreement and so DOE assumed that there are 40,000 potential jurisdictions that potentially would need training on a new energy code. This number is likely to be on the extreme high end of possible values. DOE believes there are approximately 38,000 to 44,000 jurisdictions that could adopt energy codes. Many of those jurisdictions do not adopt energy codes and many of those jurisdictions have already adopted Standard 90.1–2007 or the 2009 IECC as evidenced by the BECP maps that show 14 states have already adopted 90.1–2007 or the equivalent. DOE believes that 40,000 is very much on the high side of the estimate for jurisdictions that may need training on Standard 90.1–2007, but in the absence of a lower defensible value, DOE has chosen to use this higher conservative number.

Based on training experiences of the Building Energy Codes Program staff, with conducting training sessions for jurisdictional staff regarding Standard 90.1, one full-day (8 hours) of training is normally sufficient . Therefore we have used 8 hours as a low estimate and 16 hours as a high estimate for training hours required if a jurisdiction were to adopt Standard 90.1–2007.

a. Low estimate—8 hours * 40,000 jurisdictions * $100 per hour = $32,000,000
b. High Estimate—16 hours * 40,000 jurisdictions * $100 per hour = $64,000,000

Adding the potential training costs of $32 million to $64 million to the costs for the 3 steps indicates a potential total costs ranging from $32.12 million to $71.5 million. The high end of this estimate is less than the $100 million threshold in the Unfunded Mandates Act. Accordingly, no further action is required under the Unfunded Mandates Reform Act of 1995.

F. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's action would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

G. Review Under the Treasury and General Government Appropriations Act of 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's action under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

H. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use, should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

I. Review Under Executive Order 13175

Executive Order 13175, "Consultation and Coordination with Indian tribal Governments" (65 FR 67249; November 9, 2000), requires DOE to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" refers to regulations that have "substantial direct effects 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." Today's regulatory action is not a policy that has "tribal implications" under Executive Order 13175. DOE has reviewed today's action under Executive Order 13175 and has determined that it is consistent with applicable policies of that Executive Order.

VI. Public Participation

The public is invited to submit comments on the preliminary determinations. Comments must be provided by October 4, 2010 using any of the methods described in the **ADDRESSES** section of this notice. If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of

Information regulations at 10 CFR 1004.11.

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this preliminary determination.

Issued in Washington, DC, on August 26, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–22060 Filed 9–2–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EERE–2010–BT–DET–0030]

RIN 1904–AC17

Updating State Residential Building Energy Efficiency Codes

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

ACTION: Notice of proposed determination.

SUMMARY: The Department of Energy (DOE or Department) has preliminarily determined that the 2009 version of the International Code Council (ICC) International Energy Conservation Code (IECC) would achieve greater energy efficiency in low-rise residential buildings than the 2006 IECC. Also, DOE has preliminarily determined that the 2006 version of the IECC would achieve greater energy efficiency than the 2003 IECC. Finally, DOE has preliminarily determined that the 2003 version of the IECC would not achieve greater energy efficiency than the 2000 IECC. If these determinations are finalized, States would be required to file certification statements to DOE that they have reviewed the provisions of their residential building code regarding energy efficiency and made a determination as to whether to update their code to meet or exceed the most recent code with an affirmative determination, the 2009 IECC. Additionally, this Notice provides guidance to States on how the codes have changed from previous versions, how to submit certifications, and how to request extensions of the deadline to submit certifications, should the preliminary determinations be adopted as final.

DATES: Comments on the preliminary determinations must be provided by October 4, 2010.

ADDRESSES: You may submit comments, identified by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: ronald.majette@ee.doe.gov.* Include RIN 1904–AC17 in the subject line of the message.
- *Postal Mail:* Mr. Ronald B. Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Mr. Ronald B. Majette, U.S. Department of Energy, Federal Energy Management Program, Room 6003, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

Instructions: All submissions must include the agency name, Department of Energy, and docket number, EERE–2010–BT–DET–0030, or Regulatory Information Number (RIN), 1904–AC17, for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald B. Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, 202–586–7935. For legal issues contact Chris Calamita, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507, *e-mail: Christopher.Calamita@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction
  A. Statutory Requirements
  B. Background
  C. DOE's Preliminary Determination Statements
II. Discussion of Changes in the 2003, 2006, and 2009 IECC
  A. 2003 IECC Compared With the 2000 IECC
  B. 2006 IECC Compared With the 2003 IECC
  C. 2009 IECC Compared With the 2006 IECC
III. Comparison of the 2009 IRC to the 2009 IECC
IV. Filing Certification Statements With DOE
  A. State Determinations
  B. Certification
  C. Request for Extensions
V. Regulatory Analysis
  A. Review Under Executive Order 12866
  B. Review Under the Regulatory Flexibility Act
  C. Review Under the National Environmental Policy Act of 1969
  D. Review Under Executive Order 13132, "Federalism"
  E. Review Under the Unfunded Mandates Reform Act of 1995
  F. Review Under the Treasury and General Government Appropriations Act of 1999
  G. Review Under the Treasury and General Government Appropriations Act of 2001
  H. Review Under Executive Order 13211
  I. Review Under Executive Order 13175
VI. Public Participation
VII. Approval of the Office of the Secretary

I. Introduction

A. Statutory Requirements

Title III of the Energy Conservation and Production Act, as amended (ECPA), establishes requirements for the Building Energy Standards Program. (42 U.S.C. 6831–6837) Section 304(b) of ECPA, as amended, provides that when the 1992 Model Energy Code, or any successor to that code, is revised, the Secretary of the Department of Energy must determine, not later than 12 months after the revision, whether the revised code would improve energy efficiency in residential buildings and must publish notice of the determination in the **Federal Register**. (42 U.S.C. 6833(a)(5)(A)) The Department, following precedent set by the International Code Council (ICC) and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) considers high-rise (greater than three stories) multifamily residential buildings and hotel, motel, and other transient residential building types of any height as commercial buildings for energy code purposes. Low-rise residential buildings include one- and two-family detached and attached buildings, duplexes, townhouses, row houses, and low-rise multifamily buildings (not greater than three stories) such as condominiums and garden apartments.

If the Secretary determines that the revision would improve energy efficiency then, not later than 2 years after the date of the publication of the affirmative determination, each State is required to certify that it has compared its residential building code regarding energy efficiency to the revised code and made a determination whether it is appropriate to revise its code to meet or exceed the provisions of the successor code. (42 U.S.C. 6833(a)(5)(B)) State determinations are to be made: (1) After public notice and hearing; (2) in writing; (3) based upon findings included in such determination and upon evidence presented at the hearing; and (4) available to the public. (*See,* 42 U.S.C. 6833(a)(5)(C)) In addition, if a State determines that it is not appropriate to revise its residential building code, the State is required to submit to the Secretary, in writing, the reasons, which

are to be made available to the public. (*See,* 42 U.S.C. 6833(a)(5)(C))

B. Background

The International Code Council's (ICC) International Energy Conservation Code (IECC) establishes national energy efficiency requirements for buildings. In 1997, the Council of American Building Officials (CABO) was incorporated into the ICC and the Model Energy Code (MEC) was renamed to the IECC. A previous **Federal Register** notice, 59 FR 36173, July 15, 1994, announced the Secretary's determination that the 1993 MEC increased energy efficiency relative to the 1992 MEC for residential buildings. Similarly, another **Federal Register** notice, 61 FR 64727, December 6, 1996, announced the Secretary's determination that the 1995 MEC is an improvement over the 1993 MEC. Finally, **Federal Register** notice 66 FR 1964, January 10, 2001, simultaneously announced the Secretary's determination that the 1998 IECC is an improvement over the 1995 MEC and the 2000 IECC is an improvement over the 1998 IECC.

C. DOE's Preliminary Determination Statement

2003 IECC

The Department of Energy's review and evaluation found that there are not significant differences in energy efficiency between the 2003 edition and the 2000 edition of the IECC. Although there are a few changes that would modestly improve the energy efficiency of residential buildings, there are a number of changes that reduce energy efficiency in certain situations. Most of the changes to the IECC between the 2000 and 2003 editions would not affect energy efficiency but rather make the code simpler and clearer for designers, builders, and code compliance officials to understand and use. Based on these findings, the Department has preliminarily concluded that the 2003 edition of the IECC should not receive an affirmative determination under Section 304(b) of ECPA. The Department preliminarily concludes that there is a slight improvement in energy efficiency for many residential buildings, but this improvement is not sufficient to merit an affirmative determination. It should be noted that DOE is not concluding that the energy efficiency of the 2003 IECC less stringent than the 2000 IECC.

2006 IECC

The residential portion of the 2006 IECC has been extensively changed from that the 2003 IECC. However, the most significant changes to the code between 2003 and 2006 simplify the code format rather than fundamentally changing the overall (national average) energy efficiency of the code. Multifamily buildings, which in the past have had separate, less stringent thermal requirements, are an exception. By eliminating the separate requirements, the 2006 IECC increased the energy efficiency of multifamily buildings.

Although the most significant 2006 changes did not directly target efficiency improvements, the new format of the code does result in some energy efficiency differences. The requirements for any given building may have increased or decreased based on the specific location (climate) and building design. The Department has preliminarily found that overall the 2006 IECC has a small improvement in energy efficiency compared to the 2003 IECC. The Department preliminarily concludes that the 2006 edition of the IECC should receive an affirmative determination under Section 304(b) of EPCA.

2009 IECC

The 2009 IECC has substantial revisions compared to the 2006 IECC. Many of these revisions appear to directly improve energy efficiency, and the sum results of all changes appear to result in a significant increase in code stringency. Therefore, the Department preliminarily concludes that the 2009 edition of the IECC should receive an affirmative determination under Section 304(b) of EPCA.

II. Discussion of Changes in the 2003, 2006, and 2009 IECC

A. 2003 IECC Compared With the 2000 IECC

As a whole, the 2003 IECC's provisions for energy efficiency in residential buildings appear largely unchanged from the 2000 IECC. There are some changes in the code that can have a modest effect on energy efficiency. These are discussed below. In addition, there is a variety of minor changes intended to make the code more concise, more complete, and better organized, but not more or less stringent. For example, more specific requirements have been added for steel roofs/ceilings and floors to correspond to those already in the code for steel walls. Another example is the relocation of the 51 pages of state maps from the middle of the code to the back of the code. Additionally, the performance path in Chapter 4 of the 2003 IECC contains a variety of modest improvements compared to the 2000 IECC, which creates more concise requirements.

Changes in the 2003 IECC That Improve Energy Efficiency

1. Increased Duct Insulation Requirements

Duct insulation requirements generally increased in the 2003 IECC. The 2003 IECC requirements are shown in Table 1. These are somewhat difficult to compare to the 2000 IECC requirements because the latter are more complex, differing between ducts in unconditioned spaces and ducts completely exterior to the building and distinguishing requirements by the design temperature difference between the duct air and the space in which the ducts are located. The 2000 IECC requirements for ducts in unconditioned spaces are shown in Table 2. Assuming typical supply air temperatures of 55 degrees F for cooling and 95 degrees F for heating (for heat pumps), the 2000 IECC insulation requirement for supply ducts in unconditioned spaces is R–5 (minimum) for nearly all cases. Insulation required by the 2000 IECC for return ducts in unconditioned spaces will generally be R–3.3 in warmer climates and R–5 in colder climates.

For the very common case of supply ducts in attics, and the case that is likely to have the greatest impact on energy use, the 2003 IECC always requires at least R–8, which exceeds the 2000 IECC's R–5 requirement. For supply ducts in other unconditioned spaces, the 2003 IECC's requirements exceed the 2000 IECC's requirements in all cases except very warm locations (less than 1500 heating degree-days), where the 2003 IECC requires R–4 compared to the 2000 IECC's requirement of R–5. Because supply ducts transport air in its hottest (or coldest) condition, insulation has its greatest impact on these ducts. The 2003 IECC is almost always more stringent than the 2000 IECC for supply ducts. This includes all supply ducts in attics and, based on the distribution of population [1], more than 80% of ducts in other unconditioned spaces.

Requirements for return ducts in attics are slightly more stringent in the 2003 IECC (R–4 vs R–3.3) in the warmest climates, slightly less stringent (R–4 vs R–5) in mid climates, and slightly more stringent (R–6 vs R–5) in the coldest climates.

[1] Estimated from USGS Population Places data that allows mapping of population to climate (*http://geonames.usgs.gov/domestic/download_data.htm*).

Research [2] showing the impact on heating and cooling energy use due to duct insulation is summarized in Table 3. Based on this research, the Department estimates that improved duct insulation in the 2003 IECC will reduce heating and cooling energy use by about 1%.

TABLE 1—DUCT INSULATION REQUIREMENTS IN THE 2003 IECC

Annual heating degree days base 65°F	Insulation R-value (h · ft² · °F)/Btu			
	Ducts in unconditioned attics or outside building		Ducts in unconditioned basements, crawl spaces, and other unconditioned spaces	
	Supply	Return	Supply	Return
Below 1,500	8	4	4	0
1,500 to 3,500	8	4	6	2
3,501 to 7,500	8	4	8	2
Above 7,500	11	6	11	2

TABLE 2—INSULATION REQUIREMENTS (R-VALUE, h-ft²-F/BTU) FOR DUCTS IN UNCONDITIONED SPACES IN THE 2000 IECC

Design Temperature Difference (TD) between air temperature in duct and space in which duct is located (degrees F)	Cooling	Heating
TD ≤ 15	None required	None required.
40 ≥ TD > 15	3.3	3.3.
TD > 40	5.0	5.0.

TABLE 3—HEATING AND COOLING ENERGY SAVINGS (PERCENT) FROM INCREASED DUCT INSULATION

[Atlanta, Natural Gas Heating]

	Attic	Basement	Crawlspace
R–4 to R–6	2.3	1.6	1.8
R–6 to R–8	1.4	0.9	1.1

2. Minor Changes to "Systems Analysis" Performance Compliance Method

There are two changes that can increase the stringency of the performance path in Chapter 4 of the 2003 IECC in certain cases. First, any house proposed to use electric resistance heating must have equal or lower calculated energy use than a hypothetical "standard design" that uses a more efficient electric air source heat pump. This change makes the performance approach much more stringent for designs that have electric resistance heating. However, compliance can be achieved for these designs using the prescriptive compliance methods in Chapters 5 and 6, thereby bypassing the increased stringency of the performance path.

Second, a provision has also been added requiring that the least efficient orientation in terms of energy use be assumed for a proposed group of residences with identical designs. Therefore, in a development where the same design is built on multiple lots facing various directions, the compliance analysis must be based on the least advantageous orientation. In most of the United States, this is the orientation that points the most window area toward a westerly direction, maximizing solar heat gains in summer afternoons and therefore increasing air conditioning energy use. Because proposed building designs must have a calculated annual energy use equal to or less than that of a home with window area equally distributed toward the four cardinal directions, the requirement to assume the least efficient orientation effectively makes the code more stringent because the increased energy use from the least efficient orientation must be offset by improved energy efficiency. This requirement in the 2003 IECC will have only modest average impact because it affects only the performance approach and identical house designs used repeatedly in a development.

B. Changes in the 2003 IECC That Decrease Energy Efficiency

1. Sunroom Additions

A special set of requirements has been added to Table 502.2.5 of the 2003 IECC for sunroom additions having a floor area of less than 500 ft² (46.5 m²). Sunroom additions are permitted to have ceiling, wall insulation, and window U-factor requirements that are typically less stringent than the requirements for all other types of residential construction. These special requirements for sunrooms only apply to additions to existing dwellings, not to sunrooms that are built as part of a new dwelling. In the 2000 IECC, there were no special requirements for sunroom additions; they had to meet the same requirements as other residential construction. To qualify for the less stringent requirements in the 2003 IECC, the sunroom addition must be capable of being controlled as a separately heated and cooled zone. Additionally, new walls, doors or windows between the sunroom and the house must meet the envelope requirements of the IECC. Finally, the glazing area must exceed 40% of the gross area of the exterior walls and roof to qualify as a sunroom in the IECC.

Testing with the DOE–2 simulation tool indicates that for a 500 ft² sunroom, the less stringent 2003 requirements could add about $200 to the annual energy costs in Chicago if the sunroom is both heated and cooled all year. Impacts are much smaller in Houston,

[2] Triedler, B., R. Lucas, M. Modera, J. Miller. 1996. Impact of Residential Duct Insulation on HVAC Energy Use and Life-Cycle Costs to Consumers. American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

about $10 added energy costs. However, this increase in energy consumption is mitigated (on average) by several factors. First, the requirements apply to a very small fraction of all new residential construction. The Wall Street Journal Online (June 3, 2003) reports three billion dollars worth of sunroom construction each year, or less than one percent of all residential construction expenditures. But that fraction includes new construction as well as additions, so the fraction representing sunroom additions is less than 1%. Second, it is expected that many sunrooms will not be maintained at comfort conditions all year, further reducing the overall impact. Finally, because the 2003 IECC requires that the sunroom be thermally isolated from the rest of the house and that walls, windows, and doors between the sunroom and house meet the code's envelope requirements, the thermal impact when these spaces are not actively conditioned is negligible. Therefore, the overall impact of this reduction in stringency to national energy use is expected to be extremely small.

2. Climate Zone Maps

The IECC contains prescriptive envelope requirements (insulation R-values and glazing U-factors) in Chapter 6 and Section 502.2.4 of the code. In the 2000 IECC, only the heating degree-days for the city where the housing was to be built could be used to determine the applicable prescriptive envelope requirements. In the 2003 IECC, the heating degree-days can still be used to determine the requirements, but additionally the designer/builder can use the climate zones provided in the state maps in the IECC. For most locations, the Chapter 3 climate zones and heating degree-days lead to the exact same requirements. Using the climate zones in the maps instead of the heating degree-days will allow about 10% of cities nationwide to have a less stringent set of prescriptive requirements. However, about 20% of cities nationwide will have more stringent requirements when the climate zones are used with the prescriptive requirements. If the designer/builders select to use the climate zone maps in the 10% of cities where it lowers requirements but not in the 20% of locations where it raises requirements, the 2003 code effectively is less stringent. However, DOE believes code users will make use of the climate zone maps even in many of the locations where they raise requirements. It is doubtful most code users will go through the level of effort of determining which method of determining climate based requirements may give less stringent requirements. In fact, DOE believes most users will not even be aware of these differences, but will prefer the climate zone maps because of their simplicity. The REScheck compliance materials developed by the U.S. Department of Energy utilize the same heating degree day based requirements for both the 2000 and 2003 IECC.

3. Increased U-Factor for Skylight Replacements

The maximum U-factor for skylight replacements in existing buildings (Section 502.2.5 of the IECC) is raised from a U-factor of 0.50 to a U-factor of 0.60 for locations above 1,999 heating degree-days. A higher U-factor reduces energy efficiency.

C. Net Impact on Energy Efficiency

The change in the 2003 IECC that is expected to have the greatest impact on energy efficiency for the nation is the improved duct insulation because a majority of new residential buildings have ducts that pass through attics, crawl spaces, unheated basements and other spaces where the IECC requires duct insulation. The improved duct insulation in the 2003 IECC is estimated to save about 1% of heating and cooling costs.

The "Systems Analysis" performance compliance method is a less commonly used compliance method and the modest energy savings from the improvements in this optional compliance method can easily be bypassed by choosing a different compliance method. Because this approach is optional, it is impossible to calculate the cumulative effect these code changes will have on energy efficiency. DOE believes that the changes to the system analysis method are insufficient to sway the decision on whether the determination is affirmative or not.

The changes that reduce energy efficiency for sunroom additions and skylight replacements are not considered to have substantial impacts on national energy use as they do not apply to new buildings and only apply to specific types or retrofits and additions to existing buildings. The skylight U-factor change is only a modest reduction in energy efficiency and sunroom additions are a small fraction of the residential construction market.

The addition of the climate zone maps in the 2003 IECC as an option to using city-specific heating degree-day data allows for the possibility of preferentially lowering thermal envelope requirements in about 10% of all national locations. However, it is difficult to exploit this change because the code user must perform relatively complex calculations rather than using the popular and user-friendly REScheck software.

DOE preliminarily concludes the improved duct insulation will slightly improve energy efficiency in most houses. However, the reductions in energy efficiency for skylight replacements and sunroom additions are expected to at least partially offset these savings from a national energy total use perspective. The vast majority of all requirements in the IECC are unchanged from 2000 to 2003. For these reasons, DOE initially finds insufficient improvements in the 2003 to merit an affirmative determination.

B. 2006 IECC Compared With the 2003 IECC

The residential portion of the IECC in general and the building thermal envelope (ceilings, walls, doors, windows, foundations, etc.) requirements in particular were completely restructured from 2003 to 2006. This resulted in the code becoming much shorter and simpler, its volume reduced from 38 pages to 9 pages. The climate basis on which envelope requirements depend was completely reworked. The 2003 IECC has envelope requirements that vary continuously with heating degree-days (HDD),[3] or with 17 HDD zones (geographically-defined based on counties, roughly following 500–HDD bins). In contrast, the 2006 IECC has eight geographically-defined climate zones with all borders set on county boundaries.

A major change to envelope requirements was the combining of separate requirements for two building categories (one- and two-family dwellings, and all other low-rise residential buildings). The 2006 IECC requirements are the same for all low-rise residential building types, which has the effect of increasing the energy efficiency of the other low-rise buildings. Also eliminated were nine related tables that provided predefined packages of thermal transmittance prescriptive requirements (glazing, ceiling-roof, exterior wall, floor over unconditioned space, basement and crawl space walls, and floor slab on grade) for different window to wall area ratios (WWR). In their place, the 2006 IECC provides a single table of predefined packages of thermal

[3] Some compliance paths defined requirements based on 17 "zones" based on HDD ranges.

transmittance prescriptive requirements that do not vary with WWR.

Table 4 shows a comparison of major prescriptive envelope requirements for a single-family house at a typical 15% WWR. The requirements for the 2003 IECC will differ from those shown in Table 4 for other WWRs and for multifamily buildings. The 2006 IECC climate zones do not exactly map to the 2003 IECC zones. Table 5 shows a more detailed estimate of how residential construction maps from the 2006 IECC compare to the 2003 IECC climate zones.

TABLE 4—COMPARISON OF THE 2003 IECC AND 2006 IECC ENVELOPE THERMAL COMPONENT PRESCRIPTIVE CRITERIA FOR ONE- AND TWO-FAMILY DWELLINGS AT 15% WINDOW AREA

IECC climate zone		Heating degree days	Maximum		Minimum					
			Glazing U-factor		Ceiling R-value		Wall R-value		Floor R-value	
2003	2006		2003	2006	2003	2006	2003	2006	2003	2006
1	1 2	0–499	Any	1.20	R–13	R–30	R–11	R–13	R–11	R–13
2	2	500–999	0.90	0.75	R–19	R–30	R–11	R–13	R–11	R–13
3		1,000–1,499	0.75	0.75	R–19	R–30	R–11	R–13	R–11	R–13
4		1,500–1,999	0.75	0.75	R–26	R–30	R–13	R–13	R–11	R–13
5	3	2,000–2,499	0.65	0.65	R–30	R–30	R–13	R–13	R–11	R–19
6		2,500–2,999	0.60	0.65	R–30	R–30	R–13	R–13	R–19	R–19
7		3,000–3,499	0.55	0.65	R–30	R–30	R–13	R–13	R–19	R–19
8	4	3,500–3,999	0.50	0.40	R–30	R–38	R–13	R–13	R–19	R–19
9		4,000–4,499	0.45	0.40	R–38	R–38	R–13	R–13	R–19	R–19
10		4,500–4,999	0.45	0.40	R–38	R–38	R–16	R–13	R–19	R–19
11	5	5,000–5,499	0.45	0.35	R–38	R–38	R–18	R–19	R–19	R–19/30
12		5,500–5,999	0.40	0.35	R–38	R–38	R–18	R–19	R–21	R–19/30
13		6,000–6,499	0.35	0.35	R–38	R–38	R–18	R–19	R–21	R–19/30
14		6,500—6,999	0.35	0.35	R–49	R–38	R–21	R–19	R–21	R–19/30
15	5 6	7,000–8,499	0.35	0.35	R–49	R–38/49	R–21	R–19	R–21	R–21
16	6	8,500–8,999	0.35	0.35	R–49	R–49	R–21	R–21	R–21	R–21
17	7	9,000–12,999	0.35	0.35	R–49	R–49	R–21	R–21	R–21	R–21

IECC climate zone		Heating degree days	Minimum					
			Basement wall R-value		Slab perimeter R-value and depth feet		Crawl space wall R-value	
2003	2006		2003	2006	2003	2006	2003	2006
1	1 2	0–499	R–0	R–0	R–0	R–0	R–0	R–0
2	2	500–999	R–0	R–0	R–0	R–0	R–4	R–0
3		1,000–1,499	R–0	R–0	R–0	R–0	R–5	R–0
4		1,500–1,999	R–5	R–0	R–0	R–0	R–5	R–0
5	3	2,000–2,499	R–5	R–10/13	R–0	R–0	R–6	R–5
6		2,500–2,999	R–6	R–10/13	R–4,2	R–0	R–7	R–5
7		3,000–3,499	R–7	R–10/13	R–4,2	R–0	R–8	R–5

IECC climate zone		Heating degree days	Minimum					
			Basement wall R-value		Slab perimeter R-value and depth feet		Crawl space wall R-value	
2003	2006		2003	2006	2003	2006	2003	2006
8		3,500–3,999	R–8	R–10/13	R–5,2	R–10,2	R–10	R–10
9	4	4,000–4,499	R–8	R–10/13	R–5,2	R–10,2	R–11	R–10
10		4,500–4,999	R–9	R–10/13	R–6,2	R–10,2	R–17	R–10
11		5,000–5,499	R–9	R–10/13	R–6,2	R–10,2	R–17	R–10
12		5,500–5,999	R–10	R–10/13	R–9,4	R–10,2	R–19	R–10
13	5	6,000–6,499	R–10	R–10/13	R–9,4	R–10,2	R–20	R–10
14		6,500–6,999	R–11	R–10/13	R–11,4	R–10,2	R–20	R–10
15	5 6	7,000–8,499	R–11	R–10/13	R–13,4	R–10,2	R–20	R–10
16	6	8,500–8,999	R–18	R–10/13	R–14,4	R–10,4	R–20	R–10
17	7	9,000–12,999	R–19	R–10/13	R–18	R–10,4	R–20	R–10

TABLE 5—PERCENTAGE OF HOMES IN EACH 2006 IECC CLIMATE ZONE THAT WOULD HAVE BEEN IN EACH 2003 IECC CLIMATE ZONE

2003 IECC climate zone	2006 IECC climate zone						
	1	2	3	4 except marine	5 and marine 4	6	7 & 8
1	100	5	0	0	0	0	0
2	0	20	0	0	0	0	0
3	0	40	22	0	0	0	0
4	0	31	10	0	0	0	0
5	0	3	18	0	0	0	0
6	0	0	28	0	0	0	0
7	0	0	16	4	0	0	0
8	0	0	6	9	0	0	0
9	0	0	0	13	1	0	0
10	0	0	0	28	6	0	0
11	0	0	0	41	8	0	0
12	0	0	0	5	28	0	0
13	0	0	0	0	31	0	0
14	0	0	0	0	20	12	0
15	0	0	0	0	6	81	3
16	0	0	0	0	0	5	6
17	0	0	0	0	0	2	85
18	0	0	0	0	0	0	5
19	0	0	0	0	0	0	2

The Department has conducted an analysis and has preliminarily found that the 2006 IECC would modestly increase energy efficiency on an overall national average basis. This analysis is summarized below; a technical support document published in conjunction with this Notice contains the full results. The Department stresses that this increased energy efficiency is based on an average across all new residential buildings. The analysis identified combinations of locations and building design where the 2006 IECC would slightly reduce energy efficiency; however, the analysis indicates that the reductions would be more than offset by cases where energy efficiency is improved.

Table 6 provides the overall results of the comparative analysis of the

prescriptive envelope requirements of the 2006 IECC and the 2003 IECC. The DOE–2 energy simulation software was used to calculate these values. The 2006 IECC has a 1% average overall national energy savings. The table shows combined results for single-family and multifamily construction accounting for weighted average building characteristics. Table 6 illustrates significant regional differences that are primarily a result of the revised climate zones. In most climates, the two codes are very nearly equivalent. In climate zone 5, the 2006 IECC shows a substantial improvement (about 5%). In climate zone 3, the 2003 IECC is more energy efficient (by about 5%).

TABLE 6—ANNUAL ENERGY SAVINGS (MBTU) OF 2006 IECC COMPARED TO 2003 IECC FOR PRESCRIPTIVE BUILDING ENVELOPE REQUIREMENTS

2006 IECC Climate zone	Foundation type				Average	Percent savings
	Heated basement	Crawl space	Slab-on-grade	Unheated basement		
Zone 1	0.5	0.4	0.3	0.4	0.3	2
Zone 2	−0.1	1.4	0.9	−0.1	0.9	3
Zone 3	−8.6	−1	−3.3	−1.5	−3.4	−5
Zone 4	2	0.8	0.6	0.7	1.1	1
Zone 5	5.5	7.3	4.2	6.3	5.7	5
Zone 6	1.1	3.3	0	2.3	1.4	1
Zone 7	−2	4.5	0.4	3.4	−0.4	0
Average	2.4	2.7	−0.3	3.3	1	1

The analysis underlying the results in Table 6 does not account for all changes in the IECC from 2003 to 2006. For example, the 2006 IECC requires increased duct insulation in certain cases. On the other hand, the 2006 IECC is missing requirements for pool heater controls (on-off switch) and pool covers contained in the 2003 IECC. However, these and a few other miscellaneous changes do not appear to alter a determination that the 2006 IECC has a modest improvement in overall energy efficiency compared to the 2003 IECC. The Department expects all heated pools to have an on-off switch, basic pool covers are dependent on the diligent occupant behavior for removing/covering the pool, and many homes do not have a pool or may not heat their pool. Furthermore, the 2003 IECC allows the pool cover requirement to be bypassed if 20% of the heating energy is provided by solar heat from the sun striking the pool surface.

There was one particular issue that received the most extensive debate during the 2006 IECC development process. This issue was how the 2006 IECC sets requirements based on the window area of a home. There was considerable concern because a residential building with unlimited windows (*e.g.,* an "all glass" house) can be built without any penalty under the 2006 IECC. This is not the case in the 2003 IECC, where, as the WWR becomes higher, the code requires improved performance of windows and/or wall insulation. However, this effect is offset in two ways. First, while the 2003 IECC becomes more stringent at high WWRs, it also becomes less stringent at low WWRs, whereas the 2006 IECC does not. Second, the 2006 IECC increased the baseline efficiency requirements (U-factor) of glazing to almost equal then-current Energy Star levels in most locations. The Department's analysis of the IECC's requirements related to window area indicate that the 2006 code is not weaker than the 2003 IECC when the distribution of window areas in all residential buildings is accounted for.

A major factor influencing the Department's preliminary determination of improved efficiency in the 2006 IECC is the improvement in energy efficiency for multifamily housing. The building envelope requirements in 2006 IECC are identical for all residential building types. This is not the case in the 2003 IECC where the requirements for multifamily building types are considerably less stringent than those for one and two-family dwellings. This is shown in the wall requirements in Figure 502.2(1) of the 2003 IECC. While multifamily residential construction has a much smaller market share than single-family in terms of number of dwelling units, there is a nearly universal improvement in requirements for multifamily buildings regardless of building design or climate zone. As indicated below in the certification discussion, high-rise (greater than three stories) multifamily residential buildings and hotel, motel, and other transient residential building types of any height as commercial buildings for energy code purposes. However, the building envelope revisions in 2006 IECC would impact residential buildings such as townhouses, row houses, and low-rise multifamily buildings (not greater than three stories) such as condominiums and garden apartments.

C. 2009 IECC Compared With the 2006 IECC

Each of the major changes in the 2009 IECC that impact energy efficiency is examined individually below. All but one of the changes appear to improve energy efficiency.

1. Changes That Improve Energy Efficiency

Lighting

The 2009 IECC has a major new requirement that a minimum of 50% of all lamps (bulbs, tubes, etc.) be "high efficacy," which is defined to include compact fluorescent lights (CFLs), T–8 or smaller diameter fluorescent tubes, or other products achieving comparable or better lumen-per-watt ratings. Traditional incandescent bulbs do not meet this requirement. The 2006 IECC had no lighting requirements for residential buildings. The Department estimates that lighting consumed 11.6% of all primary energy use in residential buildings in 2006 and that the requirement in the 2009 IECC could reduce lighting energy use by about 25%.

Building Envelope Thermal Measures

The 2009 IECC has a number of changes that improve energy efficiency in the building envelope. There are direct increases in prescriptive building envelope requirements in Tables 402.1.1 and 402.1.3 of the IECC. Table 7 shows these changes. Additionally, there were a number of minor improvements, including establishing an area limit of 24 ft^2 on the door exemption from U-factor requirements.

TABLE 7—IMPROVEMENTS IN PRESCRIPTIVE ENVELOPE REQUIREMENTS

Component	2006 IECC	2009 IECC
Maximum fenestration U-factor (excluding skylights).	Zone 2: 0.75 Zone 3: 0.65 Zone 4: 0.40	Zone 2: 0.65. Zone 3: 0.50. Zone 4: 0.35.
Maximum fenestration solar heat gain coefficient (SHGC) in Zones 1 through 3.	0.40	0.30.
Basement wall insulation in Zones 6 through 8	R–13 cavity or R–10 continuous insulation	R–19 cavity or R–15 continuous insulation.
Basement wall insulation in northern section of Zone 3.	No insulation required	R–13 cavity or R–5 continuous insulation.
Wood-Frame wall insulation (all but basements) in Zones 5 and 6.	R–19	R–20.
Floor insulation in Zones 7 and 8	R–30	R–38.

Building Envelope Air Leakage

Although the fundamental requirement to seal all potential sources of leaks has not changed, the air leakage control specifications in Section 402.4 of the 2009 IECC are considerably more detailed than in the 2006 edition, requiring either a comprehensive inspection against a checklist of component sealing criteria or a whole-building pressurization test. There is a new requirement that fireplaces have gasketed doors to limit air leakage. Additionally, compliance with Standard ASTM E283 is now required to limit air leakage through recessed light fixtures. The 2006 IECC only required recessed light fixtures to be sealed but did not require compliance with the ASTM standard. This testing of fixtures is expected to help eliminate energy consuming leaks through these fixtures, which can be a very common method of lighting in kitchens and other rooms in new houses.

Duct Leakage Limits and Testing Requirement

The 2009 IECC contains a new requirement that buildings with ducts that pass outside the conditioned space (for example, if ducts are in unconditioned attics, garages or crawlspaces) have the ducts pressure tested and shown to have a maximum leakage rate below specified limits. While the 2006 IECC also requires ducts to be sealed, the addition of a specific leakage limit verified by a pressure test in each new home or retrofit is expected to substantially reduce leakage in many if not most cases.

Testing of completed homes in Washington State where prescriptive code requirements for duct sealing apply without any testing to confirm compliance, "showed no significant improvement" over non-code homes.[4] Another study from Washington State concluded: "Comparisons to air leakage rates reported elsewhere for homes built before the implementation of the 1991 WSEC show no significant improvement by the general population" despite years of training emphasizing duct sealing.[5]

Numerous other studies around the nation show substantial duct leakage in new homes, including those in states with codes requiring duct sealing. For example, a 2001 study of 186 houses built under the Model Energy Code in Massachusetts reported "serious problems were found in the quality of duct sealing in about 80% of these houses".[6] Pressurization tests in 22 of these houses found an average leakage to the outside of the house of 183 cfm, or 21.6% of the system flow, at a pressure of 25 Pascals.

The energy savings of improved duct sealing are very substantial. A California study estimated a sales-weighted state annual average savings from duct sealing of 38 therms and 239 kWh for a 1761 ft^2 house.[7] This is based on an estimated 12% improvement in duct efficiency based on previous studies indicating a 12–15% improvement potential. The Department preliminarily concludes that the 2009 IECC's requirement that duct air leakage meet an upper limit and be verified by a pressure test will save significant energy compared to the 2006 and prior editions of the IECC.

Improvement in Other Requirements

1. There are a number of changes to the "simulated performance alternative" compliance path in the 2009 IECC. The glazing area in the baseline "standard reference design" was reduced from a maximum of 18% of the conditioned floor area to 15%. This results in increased energy efficiency for any proposed design having a glazing area of more than 15%. Because use of this compliance path is completely optional, these savings will only occur when the user chooses this compliance path. Another change does not directly alter code stringency in the performance path but may ultimately result in some energy savings is the removal of the option to trade high-efficiency HVAC equipment for reductions in other requirements in the code, such as reduced envelope insulation. Because building envelopes have substantially longer lives than HVAC and/or water heating equipment, energy savings from envelope improvements may persist for many more years than comparable equipment improvements. Also, because high-efficiency equipment is already the predominant choice in many markets, disallowing envelope/equipment trade-offs is likely to result in improved overall efficiency in many situations.

2. Changes That Reduce Energy Efficiency

There is only one change in the 2009 IECC that directly reduces energy efficiency. Insulation requirements for many ducts outside the building thermal envelope are reduced from R–8 to R–6; exceptions are supply ducts in attics, which must still have R–8 insulation, and ducts in floor trusses, which retain the 2006 code's R–6 requirement.

3. Net Impact on Energy Efficiency

The Department has conducted an energy simulation analysis of 2009 IECC compared to the 2006 using the DOE–

[4] Washington State University. 2001. *Washington State Energy Code Duct Leakage Study Report.* WSUCEEP01105. Washington State University Cooperative Extension Energy Program, Olympia, Washington.

[5] Hales, D., A. Gordon, and M. Lubliner. 2003. *Duct Leakage in New Washington State Residences: Findings and Conclusions.* ASHRAE Transactions. KC–2003–1–3.

[6] Xenergy. 2001. Impact Analysis Of The Massachusetts 1998 Residential Energy Code Revisions. *http://www.mass.gov/Eeops/docs/dps/inf/inf_bbrs_impact_analysis_final.pdf.*

[7] Hammon, R. W., and M. P. Modera. 1999. "Improving the Efficiency of Air Distribution Systems in New California Homes-Updated Report." Consol. Stockton, California. *http://www.energy.ca.gov/title24/ducttape/documents/IMPROVE_EFFICIENCY_RES.PDF.*

2 simulation tool to model[8] a two-story, single-family house with a crawl space foundation and a conditioned floor area of 2,400 ft.^{2} It was assumed that the house had 8.5-ft high ceilings, a ceiling area (bordering the unconditioned attic) of 1,200 ft^2, a gross exterior wall area of 2,380 ft^2, and a window area of 357 ft^2 (15% of the wall area) equally oriented north, south, east, and west. Heating with a natural gas furnace ($1.20/therm) and central electric air conditioning ($.12/kWh) were assumed.

High-efficacy lighting was assumed to increase from 10% to 50% of all lighting within the building, reducing lighting energy use by 26%, or $74 a year. Savings attributable to the lighting requirements in the IECC will decrease as Federal law requires improved light bulbs in 2012 to 2014. Improved duct sealing was assumed to save 10% of the heating and cooling costs. Figure 1 shows the estimated annual energy cost savings resulting from the 2009 IECC changes for 14 diverse climates and for the national average. Actual savings will vary depending on many factors, including how well ducts are currently sealed in the absence of any testing requirements.

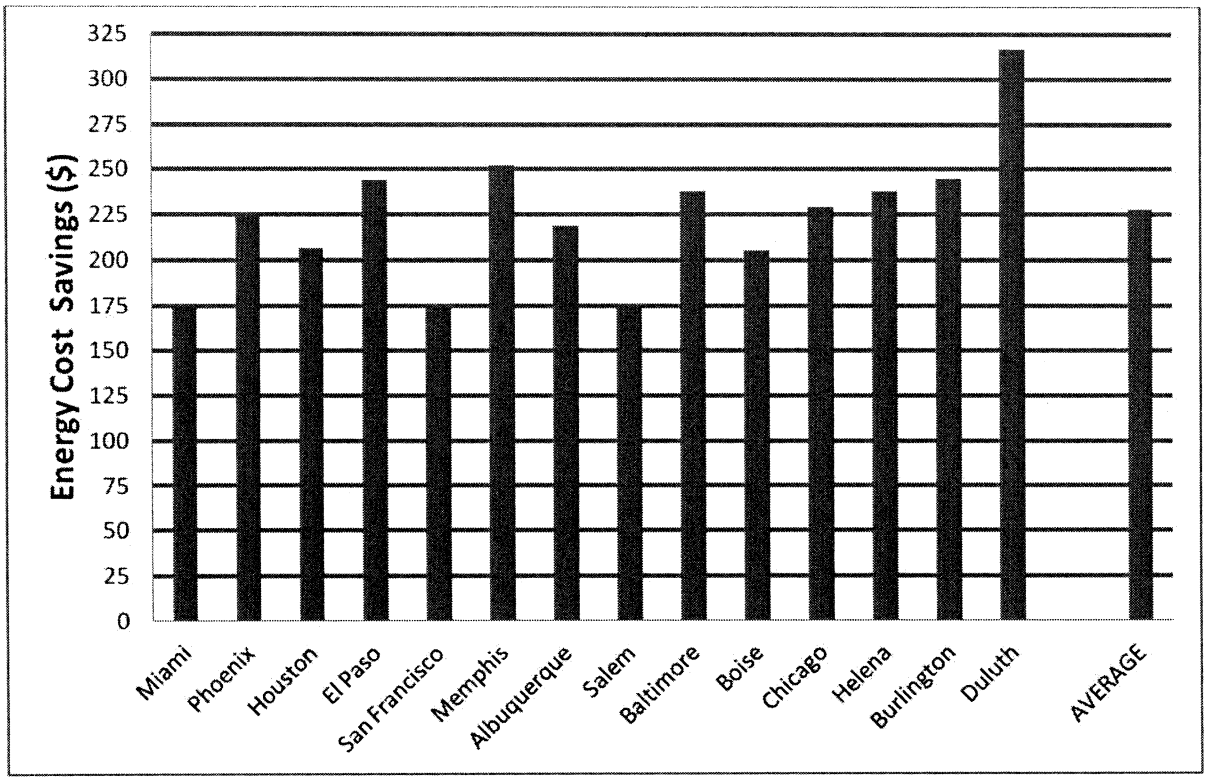

Figure 1. Annual Energy Cost Savings of 2009 IECC Compared to the 2006 IECC for a 2400 ft^2 House

III. Comparison of the 2009 IRC to the 2009 IECC

In the past some states have adopted the 2009 International Residential Code (IRC) in lieu of the 2009 IECC because the IRC provides a comprehensive building construction code (structural, plumbing, electrical, energy, etc.) in a single book for one- and two-family dwellings and townhouses. Consequently, DOE anticipates that some states may wish to adopt the 2009 IRC in lieu of the 2009 IECC. In order to provide technical assistance to States that may wish to adopt the 2009 IRC, DOE has evaluated the 2009 IRC to compare the stringency of its energy provisions with those of the 2009 IECC. Our analysis indicates that the 2009 IRC *would not* equal or exceed the energy efficiency of the 2009 IECC.

Chapter 11 of the IRC contains energy efficiency provisions. The IRC allows compliance with the IECC as an alternative to complying with Chapter 11. Most of the energy efficiency requirements in the IRC and IECC are identical. However, there are several differences between the two codes that result in the 2009 IRC having reduced energy efficiency compared to the 2009 IECC. All the differences are listed below.

1. The 2009 IECC requires a glazed fenestration solar heat gain coefficient (SHGC) of 0.30 or lower whereas the 2009 IRC requires a higher (less stringent) SHGC of 0.35 or lower, in climate zones 1, 2, and 3. Further, the 2009 IRC allows impact resistant fenestration in zones 1 through 3 to meet an even less stringent SHGC requirement of 0.40 and less stringent U-factor requirements in zones 2 and 3.

2. For basement walls, the 2009 IECC requires either R–15 continuous insulation or R–19 cavity insulation in zones 6–8, whereas the 2009 IRC requires lower (less stringent) R-values in these zones: R–10 continuous or R–15 cavity.

3. The 2009 IECC requires R–38 floors in zones 7 and 8; the 2009 IRC requires only R–30.

[8] The DOE–2 simulation tool is available at *http://doe2.com/*.

4. The 2009 IECC limits the allowance for R–30 insulation in ceilings without attics to 500 ft² or 20% of the total insulated ceiling area, whichever is less. The 2009 IRC limits the allowance to 500 ft² without regard to the total ceiling area. Thus, under the 2009 IRC some smaller homes will have less efficient ceilings.

The 2009 IRC differs from the 2009 IECC in some ways that, although they do not reduce the stringency of code requirements, have the potential to result in increased energy consumption in certain situations:

1. Both the IRC and IECC allow for "trade-offs" by which the efficiency of one building component can be lowered in trade for higher efficiency in another. The 2009 IECC limits the extent to which glazing properties can be reduced in such trade-offs. The 2009 IECC sets a trade-off "cap" on SHGC at a maximum of 0.50 in climate zones 1, 2, and 3 and a cap on U-factor trade-offs of U–0.48 in zones 4 and 5 and U–0.40 in zones 6, 7, and 8. These caps are not present in the 2009 IRC. As these caps do not increase stringency of the code (but rather restrict trade-off options), there is no direct impact on annual energy consumption or cost. There may, however, be some impacts on occupant comfort and/or resistance to moisture condensation, either of which could possibly induce occupants to increase energy consumption, for example by raising thermostat set points.

2. The air barrier and insulation inspection requirements differ slightly between the codes. The 2009 IECC requires checking that "Air-permeable insulation is inside of an air barrier" (right column in the first row). The 2009 IRC is missing this, which could result in insulation on the exterior side of an air barrier being exposed to wind-induced air movement that reduces its effective R-value.

3. The definitions of "conditioned space" are different between the two codes, which, depending on local officials' interpretations, could result in different portions of a building being deemed conditioned and hence subject to the code's envelope requirements.

4. The three labels "*mandatory,*" "*prescriptive,*" and "*performance*" are used to label many sections in the 2009 IECC, but are not used at all in the 2009 IRC. The provisions that are *mandatory* are always required while *prescriptive* provisions can be traded off as long as overall home energy efficiency is not decreased. Thus the 2009 IRC may permit trading down the efficiency of some components with the potential to induce increased energy consumption as described above.

5. The 2009 IRC (section N1101.1, "Scope") states that Chapter 11 (Energy Efficiency) does not apply to portions of the building envelope that do not enclose conditioned space. Section 101.5.2 of the IECC is more specific, exempting only *building thermal envelope provisions* that do not contain conditioned space.

Impact of the Differences Between the 2009 IRC and 2009 IECC

The Department of Energy has performed a limited analysis of potential impact of the differences between the 2009 IECC and 2009 IRC. The analysis involves thermal simulation of home performance in several representative locations using the EnergyGauge (DOE–2) [9] simulation tool on a typical house:

- 2400 ft² floor area, two-story
- Natural gas furnace heating at $1.20/therm
- Central air conditioning electricity at 12 cents/kWh
- Equipment efficiencies at Federal minimum levels
- 360 ft² window area equally distributed to the north, east, south, and west building faces, with no exterior shading.

The results are shown in Tables 8 through 10. The 2009 IRC yields a higher annual energy cost in almost all cases.

TABLE 8—ENERGY SAVINGS OF REDUCING SHGC FROM 0.35 TO 0.30 IN CLIMATE ZONES ONE THROUGH THREE

Climate zone	Representative city	Cooling savings	Heating increase	Energy savings
1	Miami	$29	$0	$29
2	Houston	18	9	9
2	Phoenix	20	1	19
3	Atlanta	16	18	−2
3	Jackson MS	19	15	4
3	Memphis	17	17	0
3	Dallas	20	14	6
3	El Paso	18	17	1
3	Las Vegas	16	15	1

TABLE 9—ENERGY SAVINGS OF INCREASING BASEMENT WALL INSULATION FROM R–13 TO R–19 IN CLIMATE ZONES SIX THROUGH EIGHT

Climate zone	Representative city	Energy savings
6	Burlington	$29
7	Duluth	34
8	Fairbanks	33

[9] EnergyGauge is available at *http://doe2.com/*.

TABLE 10—ENERGY SAVINGS OF INCREASING FLOOR INSULATION FROM R–30 TO R–38 IN CLIMATE ZONES SEVEN AND EIGHT

[Floor over unheated basement]

Climate zone	Representative city	Energy savings
7	Duluth	$13
8	Fairbanks	19

IV. Filing Certification Statements With DOE

A. State Determinations

If today's determinations are finalized, each State would be required to determine the appropriateness of revising the portion of its residential building code regarding energy efficiency to meet or exceed the provisions of the ICC International Energy Conservation Code, 2009 edition. (42 U.S.C. 6833(a)(5)(B)) A State determination for the 2009 IECC would be sufficient to address all of the DOE determinations in this notice. Note that the applicability of any State revisions to new or existing buildings would be governed by the State building codes. However, it is our understanding that generally, the revisions would not apply to existing buildings unless they are undergoing a change that requires a building permit. The determinations would be required to be made not later than two years from the date of notice final determination, unless an extension is provided. The State determination must be: (1) Made after public notice and hearing; (2) in writing; (3) based upon findings and upon the evidence presented at the hearing; and (4) made available to the public. States have considerable discretion with regard to the hearing procedures they use, subject to providing an adequate opportunity for members of the public to be heard and to present relevant information. The Department recommends publication of any notice of public hearing in a newspaper of general circulation.

Section 304(a)(4) of ECPA, as amended, requires that if a State makes a determination that it is not appropriate to revise the energy efficiency provisions of its residential building code, the State must submit to the Secretary, in writing, the reasons for this determination and the statement shall be available to the public. (42 U.S.C. 6833(a)(4))

States should be aware that the Department considers high-rise (greater than three stories) multifamily residential buildings and hotel, motel, and other transient residential building types of any height as commercial buildings for energy code purposes. Residential buildings include one- and two-family detached and attached buildings, duplexes, townhouses, row houses, and low-rise multifamily buildings (not greater than three stories) such as condominiums and garden apartments.

States should also be aware that the determinations do not apply to Chapter 5 of the 2009 IECC, which addresses commercial buildings as defined above. Therefore, States must certify their evaluations of their State building codes for residential buildings with respect to all provisions of the IECC except for those chapters.

B. Requests for Extensions To Certify

Section 304(c) of ECPA, as amended, requires that the Secretary permit an extension of the deadline for complying with the certification requirements described above, if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress toward meeting its certification obligations. (42 U.S.C. 6833(c)) Such demonstrations could include one or more of the following: (1) A plan for response to the requirements stated in Section 304, or (2) a statement that the State has appropriated or requested funds (within State funding procedures) to implement a plan that would respond to the requirements of Section 304 of ECPA.

V. Regulatory Analysis

A. Review Under Executive Order 12866

Today's action is a significant regulatory action under section 3(f)(1) of Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735; October 4, 1993). Accordingly, today's action was reviewed by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," (67 FR 53461; August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.* Today's action on the determination of improved energy efficiency between IECC editions would require States to undertake an analysis of their respective building codes. Today's action does not impact small entities. Therefore, we certify that there is no significant economic impact on a substantial number of small entities.

C. Review Under the National Environmental Policy Act of 1969

DOE has preliminarily determined that today's action is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6. of Appendix A to subpart D, 10 CFR part 1021. That Categorical Exclusion applies to actions that are strictly procedural, such as rulemaking establishing the administration of grants. Today's action impacts whether States must perform an evaluation of State building codes. The action would not have direct environmental impacts. Accordingly, DOE has not prepared an environmental assessment or an environmental impact statement.

D. Review Under Executive Order 13132, "Federalism"

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the

States and carefully assess the necessity for such actions. DOE has examined today's action and has determined that it will not preempt State law and 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. Today's action impacts whether States must perform an evaluation of State building codes. No further action is required by Executive Order 13132.

E. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of Title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of $100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

Today's action impacts whether States must perform an evaluation of State building codes. Today's action would not impose a Federal mandate on State, local or tribal governments, and it would not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

F. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's action would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

G. Review Under the Treasury and General Government Appropriations Act of 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's action under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

H. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of the Office of Information and Regulatory Affairs (OIRA) as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use, should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

I. Review Under Executive Order 13175

Executive Order 13175. "Consultation and Coordination with Indian tribal Governments" (65 FR 67249; November 9, 2000), requires DOE to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" refers to regulations that have "substantial direct effects 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." Today's regulatory action is not a policy that has "tribal implications" under Executive Order 13175. DOE has reviewed today's action under Executive Order 13175 and has determined that it is consistent with applicable policies of that Executive Order.

VI. Public Participation

The public is invited to submit comments on the preliminary determinations. Comments must be provided by October 4, 2010 using any of the methods described in the **ADDRESSES** section of this notice. If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information regulations at 10 CFR 1004.11.

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of these preliminary determinations.

Issued in Washington, DC, on August 26, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–22062 Filed 9–2–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the form EIA–886 "Annual Survey of Alternative Fueled Vehicles" to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed by October 4, 2010. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX (202–395–7285) or e-mail to *Christine_J._Kymn@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place, NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–4638. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jason Worrall. To ensure receipt of the comments by the due date, submission by FAX (202–586–5271) or e-mail (*Jason.worrall@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0670. Mr. Worrall may be contacted by telephone at (202) 586–6075.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (*i.e.,* the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (*i.e.,* new, revision, extension, or reinstatement); (5) response obligation (*i.e.,* mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; (8) an estimate of the total annual reporting burden (*i.e.,* the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Form EIA–886, "Annual Survey of Alternative Fueled Vehicles, Form".
2. Energy Information Administration.
3. OMB Number 1905–0191.
4. Three-year extension.
5. Mandatory.
6. Form EIA–886 is an annual survey that collects information on the number and type of Alternative Fueled Vehicles (AFVs) and other advanced technology vehicles that vehicle suppliers made available in the previous calendar year and plan to make available in the following calendar year; the number, type and geographic distribution of AFVs in use in the previous calendar year; the amount and distribution of each type of Alternative Transportation Fuel (ATF) consumed in the previous calendar year.

The objectives of the *Annual Survey of Alternative Fueled Vehicles* are to comply with Section 503 of the Energy Policy Act of 1992 (EPACT92) that requires EIA to report on specific aspects of alternative fueled vehicles and alternative transportation fuels; satisfy public requests for information on AFVs and ATFs; and provide Congress with a measure of the extent to which the objectives of EPACT92 are being achieved.

7. Business or other for-profit.
8. 10,812.5 hours.

Please refer to the supporting statement as well as the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC August 30, 2010.

Stephanie Brown,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 2010–22069 Filed 9–2–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0069; FRL–9196–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; The SunWise Program; EPA ICR No. 1904.06, OMB Control No. 2060–0439

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on 02/28/2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 2, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0069, by one of the following methods:

- *http://www.regulations.gov* (our preferred method): Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* Docket EPA–HQ–OAR–2007–0069, Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, *Mail code:* 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Docket EPA–HQ–OAR–2007–0069, Air and Radiation Docket at EPA West, 1301 Constitution Avenue, NW., Room 3334, Mail Code 2822T, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0069. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT:

Luke Hall-Jordan, Stratospheric Protection Division, Office of Air and Radiation, (6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 343–9591; *fax number:* (202) 343–2338; *e-mail address: hall-jordan.luke@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0069, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are elementary and middle school students, parents, and educators (informal and external educators).

Title: The SunWise Program.

ICR numbers: EPA ICR No. 1904.06, OMB Control No. 2060–0439.

ICR status: This ICR is currently scheduled to expire on 02/28/2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The goal of the SunWise School Program is to teach children and their caregivers how to protect themselves from overexposure to the sun. The SunWise Program recognizes the challenge of measuring the progress and evaluating the effectiveness of an environmental and public health education program where the ultimate goal is to reduce risk and improve public health. Therefore, the continual and careful evaluation of program effectiveness through a variety of means, including data from pre- and post-intervention surveys, tracking and monitoring of classroom activities and school policies, and advisory board meetings, is necessary to monitor progress and refine the program. Surveys to be developed and administered include: (1) Teacher questionnaire for measuring their and their students' receptivity to the educational component of the Program; and (2) Teacher survey component soliciting information about the development of a recognition and incentives program. The data will be analyzed and results will indicate the Program's effect on participants' sun-protection attitudes and behaviors, and will help guide the program's further improvement. Additionally, information is collected when educators sign up to receive a Tool Kit either on the Web or in person, and when individuals participate in an on-line sun safety tutorial/certification program. Responses to the collection of information are voluntary. All responses to the collection of information remain anonymous and confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is

estimated to average 10 to 30 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's annual estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 5,800.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 1,248 hours.

Estimated total annual costs: $82,423.88. This does not include an estimated burden cost of $61,552.96 and an estimated cost of $100,000 for capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

Yes. Hours were removed for the certification program collection include in the previous ICR. Fewer hours for EPA are anticipated for the survey work due to a decreased level of sophistication in the analysis and decreased effort being needed to solicit survey responses. More hours were added for teachers completing the educator survey and administering the student survey. Finally, registering such a large number of teachers has resulted in more hours needed at EPA. Hours and burden for educators is about the same; hours for students has also decreased significantly. The bottom line burden hours increased along with the total cost.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: August 26, 2010.

Kristinn Vazquez,

Acting Director, Stratospheric Protection Division, Office of Air and Radiation.

[FR Doc. 2010–22072 Filed 9–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8992–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 08/23/2010 Through 08/27/2010

Pursuant to 40 CFR 1506.9.

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register.**

EIS No. 20100341, Draft EIS, FHWA, WA, Cattle Point Road Realignment Project, To Maintain Vehicular, Bicycle, and Pedestrian Road Access, San Juan Island National Historical Park and Cattle Point Natural Resources Conservation Area, San Juan County, WA, *Comment Period Ends:* 11/01/2010, *Contact:* Peter Dederich 360–348–2223.

EIS No. 20100342, Draft EIS, FHWA, CA, Interstate 80/Interstate 680/State Route 12 Interchange Project, Proposal to Ease Traffic Congestions, Accommodate Projected Growth, and Improve Safety, Solano County, CA, *Comment Period Ends:* 10/18/2010, *Contact:* Lanh Phan 916–498–5046.

EIS No. 20100343, Draft EIS, BLM, NV, Tonopah Solar Energy Crescent Dunes Solar Energy Project, a 7,680-Acre Right-of-Way (ROW) on Public Lands to Construct a Concentrated Solar Thermal Power Plant Facility, Nye County, NV, *Comment Period Ends:* 10/18/2010, *Contact:* Timothy Coward 775–482–7830.

EIS No. 20100344, Final EIS, TVA, TN, Douglas and Nolichucky Tributary Reservoirs Land Management Plan, Implementation, Cocke, Greene, Hamblen, Jefferson and Sevier Counties, TN, *Wait Period Ends:* 10/04/2010, *Contact:* Amy Henry 865–632–4045.

EIS No. 20100345, Draft EIS, BR, CA, Upper Truckee River Restoration and Golf Course Reconfiguration Project, To Restore Natural Geomorphic Ecological Process, Lake Tahoe, EL Dorado County, CA, *Comment Period Ends:* 11/01/2010, *Contact:* Doug Kleinsmith 916–978–5034.

EIS No. 20100346, Draft EIS, BLM, 00, Jarbidge Draft Resource Management Plan, Implementation, Elmore, Owy Lee, and Twin Falls Counties in South-Central, ID and Elko County in Northern, CA, *Comment Period Ends:* 11/30/2010, *Contact:* Richard Vander 208–736–2380.

EIS No. 20100347, Draft EIS, FHWA, CA, CA–76 South Mission road to Interstate 15 Highway Improvement Project, Proposes to Widen and Realign/a Two Lane Highway, San Diego County, CA, *Comment Period Ends:* 11/01/2010, *Contact:* Cesar Perez 916–498–5065.

EIS No. 20100348, Final EIS, FERC, ID, Swan Falls Hydroelectric Project, Application for a New License for the 25-megawatt Hydroelectric Facility (FERC Project No. 503–048), Snake River, Ada and Owyhee Counties, ID, *Wait Period Ends:* 10/04/2010, *Contact:* Mary O'Driscoll 1–866–208–3372.

EIS No. 20100349, Draft Supplement, FHWA, WI, Wisconsin Highway Project, Mobility Motorized and Nonmotorized Travel Enhancements, Updated Information on New Alternatives, and Evaluates a Staged Improvement, US18/151 (Verona Road) and the US 12/14 (Beltine) Corridors, Dane County, WI, *Comment Period Ends:* 10/29/2010, *Contact:* Johnny Gerbitz 608–829–7500.

EIS No. 20100350, Final EIS, NRC, WI, GENERIC—License Renewal of Nuclear Plants for Kewaunee Power Station, Supplement 40 to NUREG–1437, Kewaunee County, WI, *Wait Period Ends:* 10/04/2010, *Contact:* Dan Doyle 301–415–3748.

EIS No. 20100351, Draft EIS, NRC, GA, Vogtle Electric Generating Plant Units 3 and 4, Construction and Operation, Application for Combined Licenses (COLs), NUREG–1947, Waynesbora, GA, *Comment Period Ends:* 11/16/2010, *Contact:* Mallecia Sutton 301–415–0673.

EIS No. 20100352, Draft EIS, FTA, CA, Regional Connector Transit Corridor Project, Proposes a Light Rail Extension Connecting Metro Gold Line to the Metro Blue Line and the Metro Expo Line, Los Angeles County, CA, *Comment Period Ends:* 10/18/2010, *Contact:* Ray Tellis 213–202–3950.

EIS No. 20100353, Draft EIS, FTA, CA, Westside Subway Extension Transit Corridor Project, Extension of the Existing Metro Purple Line and Metro Red Line Heavy Rail Subway, Los Angeles County Metropolitan Transportation Authority, Los Angeles County, CA, *Comment Period Ends:* 10/18/2010, *Contact:* Ray Tellis 213–202–3950.

EIS No. 20100354, Final EIS, NPS, 00, South Florida and Caribbean Parks Exotic Plant Management Plan, Manage and Control Exotic Plants in Nine Parks, Five in South Florida Parks: Big Cypress National Preserve, Biscayne National Park, Canaveral National Seashore, Dry Tortugas National Park, Everglades National Park and Four in Caribbean Parks: Buck Island Reef National Monument, Christiansted National Historic Site, Salt River Bay National Historic Park and Ecological Preserve and Virgin Islands National Park, Florida and Caribbean, *Wait Period Ends:* 10/04/2010, *Contact:* Sandra Hamilton 303–969–2068.

EIS No. 20100355, Draft Supplement, FRA, NV, DesertXpress High-Speed Passenger Train Project, Updated Information on Project Modification and Additions, Proposes to Construct and Operate High-Speed Passenger Train between Victorville, California and Las Vegas, Nevada, *Comment Period Ends:* 10/18/2010, *Contact:* Wendy Messenger 202–493–6396.

EIS No. 20100356, Draft EIS, NPS, WA, Stehekin River Corridor Implementation Plan, General Management Plan, Implementation, Lake Chelan National Recreation Area, North Cascades National Park Service Complex, WA, *Comment Period Ends:* 12/13/2010, *Contact:* Jon Riedel 360–873–4590, Ext 21.

EIS No. 20100357, Final EIS, USFS, SD, Nautilus Project Area, Multiple Resource Management Actions, Implementation, Black Hills National Forest, Northern Hills Ranger District, Lawrence, Meade and Pennington, SD, *Wait Period Ends:* 10/04/2010, *Contact:* Chris Stores 605–642–4622.

EIS No. 20100358, Draft EIS, USFS, WY, Livestock Grazing and Vegetation Management on Five Project Area, Proposes to Continue to Authorize Livestock Grazing, Tongue, Medicine Wheel/Paintrock, and Power River Districts of the Bighorn National Forest, Johnson, Sheridan, Big Horn and Washakie Counties, WY, *Comment Period Ends:* 10/18/2010, *Contact:* Laurie Walters-Clark 307–674–2627.

EIS No. 20100359, Final EIS, NOAA, WI, Lake Superior National Estuarine Research Reserves to be known as the Lake Superior Reserve Proposed Designation, To Provide Greater Protection, Research and Education Opportunities to 16,697 Acres of the St. Louis River Estuary, WI, *Wait Period Ends:* 10/04/2010, *Contact:* Laurie McGilvray 301–563–1158.

Amended Notices

EIS No. 20100258, Draft EIS, BLM, OR, North Steens 230-kV Transmission Line Project, Construction and Operation of a Transmission Line and Access Roads Associated with the Echanis Wind Energy Project, Authorizing Right-of-Way Grant, Harney County, OR, *Comment Period Ends:* 09/17/2010, *Contact:* Skip Renchler 541–573–4400. Revision to FR Notice Published 7/16/2010: Extending Comment Period from 8/30/2010 to 09/17/2010.

EIS No. 20100296, Draft EIS, NOAA, 00, Columbia River Basin Hatchery Operations and the Funding of Mitchell Act Hatchery Program, To Authorize the Establishment, Operation and Maintenance of One or More Hatchery Facilities, OR, WA and ID, *Comment Period Ends:* 12/03/2010, *Contact:* Allyson Purcell 503–736–4736.

Revision to FR Notice Published 08/06/2010: Extending the Comment Period from 11/04/2010 to 12/03/2010.

Dated: 08/31/2010.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010–22074 Filed 9–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9196–5]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Clean Air Scientific Advisory Committee (CASAC), Ambient Air Methods and Monitoring Subcommittee (AAMMS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting on September 29–30, 2010, of the Clean Air Scientific Advisory Committee (CASAC) Ambient Air Monitoring & Methods Subcommittee (AAMMS) to provide advice concerning the development of a guidance document on network design for near-road ambient air monitoring and the implementation of an associated pilot monitoring study.

DATES: The CASAC AAMMS meeting will be held on Wednesday, September 29, 2010 from 8:30 a.m. to 5 p.m. (Eastern Time) and on Thursday, September 30, 2010 from 8:30 a.m. to 12 p.m. (Eastern Time).

ADDRESSES: The public meeting will be held at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone (919) 941–6200.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the September 29–30, 2010 public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 546–2073; fax (202) 565–2098; or e-mail at *stallworth.holly@epa.gov.* General information concerning the CASAC and the CASAC documents can be found on the EPA Web site at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered

under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2. The CASAC AAMMS will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six "criteria" air pollutants. On February 9, 2010, EPA promulgated monitoring requirements as part of a final rule supporting the revision to the primary (health-based) NAAQS for nitrogen oxides. As part of the rulemaking, certain State and local air agencies are required to operate near-road nitrogen dioxide (NO_2) monitors. To assist States and local air agencies, EPA is developing near-road monitoring guidance materials and planning an associated pilot monitoring study for which they have requested AAMMS' advice. This review will cover the multi-pollutant aspects of near-road monitoring, supplementing the NO_2 focus with discussion of carbon monoxide, particulate matter and related measurements.

Technical Contacts: Any technical questions concerning the near-road monitoring requirements, planned guidance document, and pilot monitoring study can be directed to Mr. Nealson Watkins at 919–541–5522 or *watkins.nealson@epa.gov.*

Availability of Meeting Materials: The EPA draft guidance documents are posted at *http://www.epa.gov/ttn/amtic/casacinf.html.* Prior to the meetings, the agenda, charge questions and other materials for these AAMMS meetings will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/casac/.*

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a Federal advisory committee to consider as it develops advice for EPA. They should send their comments directly to the Designated Federal Officer for the relevant advisory committee. *Oral Statements:* To be placed on the public speaker list for the meeting, interested parties should notify Dr. Stallworth, DFO, by e-mail no later than September 22, 2010. Individuals making oral statements will be limited to five minutes per speaker. *Written Statements:* Written statements for the meeting should be received in the SAB Staff Office by September 22, 2010, so that the information may be made available to the CASAC AAMMS for its consideration prior to this meeting. Written statements should be supplied to the DFO via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 27, 2010.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–22073 Filed 9–2–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0452; FRL–8842–6]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation of the product, Biter Fighter, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. The cancellation was voluntarily requested by the registrant, Ticks and Mosquitoes, LLC., and accepted by EPA. This cancellation order follows a June 9, 2010 **Federal Register** Notice of Receipt of Request from the registrant to voluntarily cancel this product registration. In the June 9, 2010 notice, EPA indicated that it would issue an order implementing the cancellation, unless the Agency received substantive comments within the 30 day comment period that would merit its further review of this request, or unless the registrant withdrew his request. The Agency did not receive any comments on the notice. Further, the registrant did not withdraw his request. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellation. Any distribution, sale, or use of the product subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellation is effective September 3, 2010.

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; fax number: (703) 305–0118; 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, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0452. 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. What Action is the Agency Taking?

This notice announces the cancellation of the product, Biter Fighter, EPA Registration Number 75771-1, registered under FIFRA section 3. Cancellation of the product, Biter Figher, containing the chemicals calcium lactate and urea, was requested by the registrant, Ticks or Mosquitoes,

LLC , 905 S. Kings Highway, Sikeston, MO 63801.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the June 9, 2010 **Federal Register** notice announcing the Agency's receipt of the request for voluntary cancellation of this product.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellation of the registration of the product, Biter Fighter, EPA Registration Number 75771-1. Accordingly, the Agency hereby orders that the product registration is canceled. The effective date of the cancellation that is the subject of this notice is September 3, 2010. Any distribution, sale, or use of existing stocks of the product, Biter Fighter, EPA Registration Number 75771-1, in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt of requests to voluntarily cancel the registration of Biter Fighter was published for comment in the **Federal Register** issue of June 9, 2010 (75 FR 32766) (FRL–8828–1). The comment period closed on July 9, 2010.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the product subject to this order are as follows.

The registrant may continue to sell and distribute existing stocks of Biter Fighter, EPA Registration Number 75771-1, until September 6, 2011, which is 1 year after the publication of this Cancellation Order in the **Federal Register**. Thereafter, the registrant is prohibited from selling or distributing Biter Fighter, except for export in accordance with FIFRA section 17, or proper disposal. Persons other than the registrant may sell, distribute, or use existing stocks of Biter Fighter until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 23, 2010.

W. Michael McDavit.

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2010–21952 Filed 9–2–10; 8:45 am]

BILLING CODE 6560–50–S

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 21, 2010.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Thomas D. McGavran, Minneapolis, Kansas; to acquire additional shares of Delphos, Inc., and thereby acquire additional shares of State Bank of Delphos, both of Delphos, Kansas.

Board of Governors of the Federal Reserve System, August 31, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–22050 Filed 9–3–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 1, 2010.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105-1579:

1. GV Bancorp Employee Stock Ownership Plan, Gunnison, Utah; to acquire additional voting shares of GV Bancorp and thereby indirectly acquire shares of Gunnison Valley Bank, all of Gunnison, Utah.

Board of Governors of the Federal Reserve System, August 31, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–22051 Filed 9–1–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–417, CMS–10227 and CMS–10351]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Hospice Request for Certification in the Medicare Program; *Use:* The Hospice Request for Certification Form is the identification and screening form used to initiate the certification process and to determine if the provider has sufficient personnel to participate in the Medicare program. *Form Number:* CMS–417 (OMB#: 0938–0313); *Frequency:* Annually; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 3,494; *Total Annual Responses:* 3,494; *Total Annual Hours:* 594. (For policy questions regarding this collection contact Debbie Terkay at 410–786–6835. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* PACE State Plan Amendment Pre-print; *Use:* The Balanced Budget Act of 1997 created section 1934 of the Social Security Act that established the Program for the All-Inclusive Care for the Elderly (PACE). The legislation established the PACE program as a Medicaid State plan option serving the frail and elderly in the home and community. Pursuant to the notice given in 64 FR 66271 (November 24, 1999), if a State elects to offer PACE as an optional Medicaid benefit, it must complete a State Plan Amendment described as Enclosures #3, 4, 5, 6 and 7. The information collected is used by CMS to affirm that the State elects to offer PACE an optional State plan service and the specifications of eligibility, payment and enrollment for the program. *Form Number:* CMS–10227 (OMB#: 0938–1027); *Frequency:* Once; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 36; Total *Annual Responses:* 12; *Total Annual Hours:* 240. (For policy questions regarding this collection contact Angela Taube at 410–786–2638. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* ESRD PPS Transition Election and attestations of Low-Volume; *Use:* The Medicare Improvement for Patients and Providers Act (MIPPA) requires implementation of an End Stage Rental Disease (ESRD) bundled prospective payment system (PPS) effective January 1, 2011. Once implemented, the ESRD PPS will replace the current basic case-mix adjusted composite payment system and the methodologies for the reimbursement of separately billable outpatient ESRD related items and services. The ESRD PPS will provide a single payment to the ESRD facilities that will cover all the resources used in providing an outpatient dialysis treatment. Also, as required my MIPPA, ESRD facilities are eligible to receive a low-volume adjustment when the facility furnished less than 4000 treatments in each of the three years pre-ceding the payment year.

In order for an ESRD facility to receive the low-volume adjustment, CMS will require that an ESRD facility must provide an attestation to the fiscal intermediary or the Medicare administrative contractor (FI/MAC) that it has met the criteria to qualify as a low-volume facility. The FI or MAC would verify the ESRD facility's attestation of their low-volume status using the ESRD facility's final-settled cost reports. Also, an ESRD facility may make a one-time election to be excluded from the four-year transition to the ESRD PPS. A facility may elect to be paid entirely based on the ESRD PPS beginning January 1, 2011. If the ESRD facility fails to submit an election, or the ESRD facility's election is not received by their MAC by November 1, 2010, payments to the ESRD facility for items and services provided during the transition will be paid under the basic case-mix adjusted composite payment system. *Form Number:* CMS–10351 (OMB#: 0938–New); *Frequency:* Annually; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 5,808; *Total Annual Responses:* 2,520; *Total Annual Hours:* 563.2. (For policy questions regarding this collection contact Janet Samen at 410–786–4533. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *November 2, 2010:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 26, 2010.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2010–21722 Filed 9–2–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10219, CMS–10317, CMS–10069, CMS–10068, CMS–2728 and CMS–R–13]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506I(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Healthcare Effectiveness Data and Information Set (HEDIS®) Data Collection for Medicare Advantage; *Use:* Medicare Advantage Organizations (MAOs) and section 1876 cost contracting managed care are required to submit HEDIS® data to CMS on an annual basis. Sections 422.152 and 422.516 of Volume 42 of the Code of Federal Regulations (CFR) specify that Medicare Advantage organizations must submit performance measures as specified by the Secretary of the Department of Health and Human Services and by CMS. These performance measures include HEDIS®. HEDIS® is a widely used set of health plan performance measures utilized by both private and public health care purchasers to promote accountability and to assess the quality of care provided by managed care organizations. HEDIS® is designed for private and public health care purchasers to promote accountability and to assess the quality of care provided by managed care organizations. CMS is committed to the implementation of health care quality assessment in the Medicare Advantage program. In January 1997, CMS began requiring Medicare managed care organizations (MCOs) (these organizations are now called Medicare Advantage organizations or MAOs) to collect and report performance measures from HEDIS® relevant to the Medicare managed care beneficiary population. The data are used by CMS staff to monitor MAO performance and inform audit strategies, and inform beneficiary choice through their display in CMS' consumer-oriented public compare tools and Web sites. Medicare Advantage organizations use the data for quality assessment and as part of their quality improvement programs and activities. Quality Improvement Organizations (QIOs), and CMS contractors, use HEDIS® data in conjunction with their statutory authority to improve quality of care, and consumers who are making informed health care choices. *Form Number:* CMS–10219 (OMB#: 0938–1028); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 483 *Total Annual Responses:* 483; *Total Annual Hours:* 154,560 (For policy questions regarding this collection contact Lori Teichman at 410–786–6684. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* The Medicare Acute Care Episode Demonstration; *Use:* Medicare's Acute Care Episode (ACE) Demonstration is authorized under Section 646 of the MMA (Pub. L. 108–173) that amends title XVIII (42 U.S.C. 1395) of the Social Security Act. The ACE Demonstration stems from a longstanding need for improved quality of care and decreased costs.

As costs have risen over time, ideas to improve Medicare payment systems and efficiency have been developed. Moving from a cost based payment arrangement to a hospital prospective payment system has dramatically simplified billing and coding procedures and generated important impacts on Medicare savings and quality of care measures. While prospective hospital payments based on diagnosis related group (DRGs) for acute care was the innovation of the 1980s, the Federal government has taken interest in value-based purchasing (VBP) in recent years. The VBP strategy rests on linking hospital performance to financial incentives. VBP has been heralded as a method to increase efficiency and quality of care while decreasing cost. In addition to its use as a payment system, the VBP strategy allows for performance scoring of hospitals based on the designated VBP quality measures.

In the case of the ACE Demonstration, the test has been designed to address the use of a global payment for an episode of care as an alternative approach to payment under traditional Medicare. The episode of care is defined as the bundle of Part A and Part B services provided during an inpatient stay for Medicare FFS beneficiaries for included Medicare severity-based diagnosis-related groups (MS–DRGs). The ACE Demonstration is limited to health care groups (*i.e.,* physician-hospital organizations—PHOs) with at least one physician group and at least one hospital and that routinely provide care for at least one group of selected orthopedic or cardiac procedures:

- Hip/knee replacement or revision surgery; and/or
- Coronary artery bypass graft (CABG) surgery or cardiac intervention procedure (pace-maker and stent placement).

Evaluation of ACE will reveal whether the use of a bundled payment system will produce savings for Medicare for episodes of care involving the included DRGs. In addition to cost savings, the evaluation will assess changes to quality of care at the demonstration sites; whether or not the payment system creates better collaboration between physicians and facilities leading to higher quality patient care. *Form Number:* CMS–10317 (OMB#: 0938–New); *Frequency:* Occasionally; *Affected Public:* Individuals or households; *Number of Respondents:* 509 *Total Annual Responses:* 509; *Total Annual Hours:* 763.5 (For policy questions regarding this collection contact Jesse Levy at 410–786–6600. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Extension of a currently approval collection; *Title of Information Collection:* Medicare Waiver Demonstration Application; *Use:* The currently approved application has been used for several congressionally mandated and Administration high priority demonstrations. The standardized proposal format is not controversial and will reduce burden on applicants and reviewers. Responses are strictly voluntary. The standard format will enable CMS to select proposals that meet CMS objectives and show the best potential for success. *Form Number:* CMS–10069 (OMB#: 0938–0880); *Frequency:* Once; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 75 *Total Annual Responses:* 75; *Total Annual*

Hours: 6,000 (For policy questions regarding this collection contact Diane Ross at 410–786–1169. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Beneficiary Customer Service Feedback Survey; *Use:* The Centers for Medicare and Medicaid Services (CMS) stresses a continuing need for setting customer service goals that include providing accurate, timely, and relevant information to its customers. With these goals in mind, the Division of Medicare Ombudsman Assistance (DMOA) needs to periodically survey its customers that correspond with CMS to ensure that the needs of Medicare beneficiaries are being met. This survey will be used to measure overall satisfaction of the customer service that the DMOA provides to Medicare beneficiaries and their representatives. The need for this previously OMB approved information collection is to further meet the customer service goals that the CMS has established and to continue to create a rapport within the Medicare community. *Form Number:* CMS–10068 (OMB#: 0938–0894); *Frequency:* Quarterly; *Affected Public:* Individuals and Households; *Number of Respondents:* 2,242 *Total Annual Responses:* 2,242; *Total Annual Hours:* 224. (For policy questions regarding this collection contact Nancy Conn at 410–786–8374. For all other issues call 410–786–1326.)

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* End Stage Renal Disease Medical Evidence Report Medicare Entitlement and/or Patient Registration; *Use:* The End Stage Renal Disease (ESRD) Medical Evidence Report is completed for all ESRD patients either by the first treatment facility or by a Medicare-approved ESRD facility when it is determined by a physician that the patient's condition has reached that stage of renal impairment that a regular course of kidney dialysis or a kidney transplant is necessary to maintain life. The data reported on the CMS–2728 is used by the Federal Government, ESRD Networks, treatment facilities, researchers and others to monitor and assess the quality and type of care provided to end stage renal disease beneficiaries. The data collection captures the specific medical information required to determine the Medicare medical eligibility of End Stage Renal Disease claimants. *Form Number:* CMS–2728 (OMB#: 0938–0046); *Frequency:* Occasionally; *Affected Public:* Individuals or households; *Number of Respondents:* 100,000; *Total Annual Responses:* 100,000; *Total Annual Hours:* 75,000. (For policy questions regarding this collection contact Connie Cole at 410–786–0257. For all other issues call 410–786–1326.)

6. T*ype of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions of Coverage for Organ Procurement Organizations and Supporting Regulations in 42 CFR, Sections 486.301–.348; *Use:* Section 1138(b) of the Social Security Act, as added by section 9318 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509), sets forth the statutory qualifications and requirements that OPOs must meet in order for the costs of their services in procuring organs for transplant centers to be reimbursable under the Medicare and Medicaid programs. An OPO must be certified and designated by the Secretary as an OPO and must meet performance-related standards prescribed by the Secretary. The corresponding regulations are found at 42 CFR Part 486 (Conditions for Coverage of Specialized Services Furnished by Suppliers) under subpart G (Requirements for Certification and Designation and Conditions for Coverage: Organ Procurement Organizations).

Since each OPO has a monopoly on organ procurement within its donation service area, CMS must hold OPOs to high standards. Collection of this information is necessary for CMS to assess the effectiveness of each OPO and determine whether it should continue to be certified as an OPO and designated for a particular donation service area by the Secretary or replaced by an OPO that can more effectively procure organs within the donation service area. *Form Number:* CMS–R–13 (OMB#: 0938–0688); *Frequency:* Occasionally; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 79; *Total Annual Responses:* 79; *Total Annual Hours:* 15,178. (For policy questions regarding this collection contact Diane Corning at 410–786–8486. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *October 4, 2010.*

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, *Fax Number:* (202) 395–6974, *E-mail: OIRA_submission@omb.eop.gov.*

Dated: August 26, 2010.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2010–21721 Filed 9–2–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–10–10GX]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, Ph.D., CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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. Written comments should be received within 60 days of this notice.

Proposed Project

Persistence of Viable Influenza Virus in Aerosols—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is authorized to conduct research to advance the health and safety of workers under Section 20(a)(1) of the 1970 Occupational Safety and Health Act.

Influenza continues to be a major public health concern because of the substantial health burden from seasonal influenza and the potential for a severe pandemic. Although influenza is known to be transmitted by infectious secretions, these secretions can be transferred from person to person in many different ways, and the relative importance of the different pathways is not known. The likelihood of the transmission of influenza virus by small infectious airborne particles produced during coughing and breathing is particularly unclear. The question of airborne transmission is especially important in healthcare facilities, where influenza patients tend to congregate during influenza season, because it directly impacts the infection control and personal protective measures that should be taken by healthcare workers.

The purpose of this study is to measure the amount of viable influenza virus in airborne particles that are produced by patients when they cough, and the size and quantity of the particles carrying the virus. A better understanding of the amount of potentially infectious material released by patients and the size of the particles carrying the virus will assist in determining the possible role of airborne transmission in the spread of influenza and in devising measures to prevent it.

Volunteer participants will be recruited by a test coordinator using a flyer describing the study. Interested potential participants will be screened using a short health questionnaire to verify that they have influenza-like symptoms and that they do not have any medical conditions that would preclude their participation. Qualified participants who agree to participate in the study will be asked to read and sign an informed consent form. Based on a previous study using similar forms, we estimate that the health questionnaire will require about 5 minutes to complete, and the informed consent form will take about 20 minutes to read and sign. Once the informed consent form is signed, the participant will be asked to cough into an aerosol particle collection system, and the airborne particles produced by the participant during coughing will be collected and tested.

ESTIMATED ANNUAL BURDEN HOURS

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Initial participants	Health questionnaire	132	1	5/60	11
Qualified participants	Informed Consent form	120	1	20/60	40
Total					51

Dated: August 27, 2010.

Maryam I. Daneshvar,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–22053 Filed 9–2–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–E–0290]

Determination of Regulatory Review Period for Purposes of Patent Extension; NEURX DIAPHRAGM PACING SYSTEM

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for NEURX DIAPHRAGM PACING SYSTEM and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written petitions along with three copies and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device, NEURX DIAPHRAGM PACING SYSTEM. NEURX DIAPHRAGM PACING SYSTEM is indicated to allow patients with stable, high spinal cord injuries and with stimulatable diaphragms to breathe without the assistance of a mechanical ventilator for at lease 4 continuous hours a day. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for NEURX DIAPHRAGM PACING SYSTEM (U.S. Patent No. 5,472,438) from Case Western Reserve University, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 17, 2010, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of NEURX DIAPHRAGM PACING SYSTEM represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for NEURX DIAPHRAGM PACING SYSTEM is 5,166 days. Of this time, 4,830 days occurred during the testing phase of the regulatory review period, while 336 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective*: April 28, 1994. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective April 28, 1994.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e)*: July 18, 2007. FDA has verified the applicant's claim that the premarket approval application (PMA) for NEURX DIAPHRAGM PACING SYSTEM (PMA H070003) was initially submitted July 18, 2007.

3. *The date the application was approved*: June 17, 2008. FDA has verified the applicant's claim that PMA H070003 was approved on June 17, 2008.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,737 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by November 2, 2010. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 2, 2011. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written petitions. It is only necessary to send one set of comments. It is no longer necessary to send three copies of mailed comments. However, if you submit a written petition, you must submit three copies of the petition. Identify comments with the docket number found in brackets in the heading of this document.

Comments and petitions that have not been made publicly available on regulations.gov may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 13, 2010.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 2010–22081 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0579]

International Conference on Harmonisation; Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Annex 11 on Capillary Electrophoresis General Chapter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 11: Capillary Electrophoresis General Chapter." The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance provides the results of the ICH Q4B evaluation of the Capillary Electrophoresis General Chapter harmonized text from each of the three pharmacopoeias (United States, European, and Japanese) represented by the Pharmacopoeial Discussion Group (PDG). The guidance conveys recognition of the three pharmacopoeial methods by the three ICH regulatory regions and provides specific information regarding the recognition. The guidance is intended to recognize the interchangeability between the local regional pharmacopoeias, thus avoiding redundant testing in favor of a common testing strategy in each regulatory region. This guidance is in the form of an annex to the core guidance on the Q4B process entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions" (the core ICH Q4B guidance).

DATES: Submit either electronic or written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Robert H. King, Sr., Center for Drug Evaluation and Research (HFD–003), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4150, Silver Spring, MD 20993–0002, 301–796–1242, or

Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–0373.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of December 17, 2009 (74 FR 66981), FDA published a notice announcing the availability of a draft tripartite guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 11: Capillary Electrophoresis General Chapter." The notice gave interested persons an opportunity to submit comments by February 16, 2010.

After consideration of the comments received and revisions to the guidance, a final draft guidance entitled "Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions; Annex 11: Capillary Electrophoresis General Chapter" was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in June 2010.

The guidance provides the specific evaluation outcome from the ICH Q4B process for the Capillary Electrophoresis General Chapter harmonization proposal originating from the three-party PDG. This guidance is in the form of an annex to the core ICH Q4B guidance made available in the **Federal Register** of February 21, 2008 (73 FR 9575). When implemented, the annex will provide guidance for industry and regulators on the use of the specific pharmacopoeial texts evaluated by the ICH Q4B process. Following receipt of comments on the draft, no substantive changes were made to the annex.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov*, *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: August 30, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–21991 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2010–M–0244, FDA–2010–M–0220, FDA–2010–M–0219, FDA–2010–M–0242, FDA–2010–M–0261, FDA–2010–M–0262, FDA–2010–M–0264, FDA–2010–M–0294, FDA–2010–M–0285]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Nicole Wolanski, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1650, Silver Spring, MD 20993–0002, 301–796–6570.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**. Instead, the agency now posts this information on the Internet on FDA's home page at *http://www.fda.gov*. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from April 1, 2010, through June 30, 2010. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM APRIL 1, 2010, THROUGH JUNE 30, 2010

PMA No. Docket No.	Applicant	TRADE NAME	Approval Date
P090018 FDA–2010–M–0244	Envoy Medical Corp.	ESTEEM TOTALLY IMPLANTABLE HEARING SYSTEM	March 17, 2010
P080029 FDA–2010–M–0220	Interventional Therapies, LLC	QUICK CLOSE VASCULAR SUTURING SYSTEM	April 8, 2010
P090022 FDA–2010–M–0219	Lenstec, Inc.	SOFTEC HD POSTERIOR CHAMBER INTRAOCULAR LENS (PCIOL)	April 12, 2010
P080032 FDA–2010–0242	Asthmatix, Inc.	ALAIR BRONCHIAL THERMOPLASTY	April 27, 2010
P090007 FDA–2010–M–0261	Roche Diagnostics Corp.	ELECSYS ANTI-HCV IMMUNOASSAY AND ELECSYS PRECICONTROL ANTI-HCV FOR USE ON THE COBAS E411 IMMUNOASSAY ANALYZER	April 29, 2010
P090008 FDA–2010–M–0262	Roche Diagnostics Corp.	ELECSYS ANTI-HCV IMMUNOASSAY AND ELECSYS PRECICONTROL ANTI-HCV FOR USE ON THE COBAS E601 IMMUNOASSAY ANALYZER	April 29, 2010
P090009 FDA–2010–M–0264	Roche Diagnostics Corp.	ELECSYS ANTI-HCV IMMUNOASSAY AND ELECSYS PRECICONTROL ANTI-HCV FOR USE ON THE MODULAR ANALYTICS E170 ANALYZER	April 29, 2010
P050027 FDA–2010–M–0294	Karl Storz endoscopy—America, Inc.	PHOTODYNAMIC DIAGNOSTIC D-LIGHT C	May 28, 2010
P060029 FDA–2010–M–0285	Ethicon, Inc.	OMNEX SURGICAL SEALANT	June 3, 2010

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cdrh/pmapage.html*.

Dated: August 31, 2010.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2010–22085 Filed 9–2–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Review of T32 Applications on Clinical and Developmental Pharmacology.

Date: September 29, 2010.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22087 Filed 9–2–10; 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 Initial Review Group, Neuroscience of Aging Review Committee.

Date: October 4–5, 2010.

Time: 4 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20892.

Contact Person: William Cruce, PhD, Scientific Review Administrator, National Institute On Aging, Scientific Review Office, Gateway Building 2C–212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.

Date: October 7–8, 2010.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20892.

Contact Person: Alicja L. Markowska, PhD, DSC, National Institute On Aging, National Institutes of Health, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.

Date: October 7, 2010.

Time: 12 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: Bita Nakhai, PhD., Scientific Review Officer, Scientific Review Branch, National Institute On Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 27, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22089 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Language and Communication Study Section, October 4, 2010, 8 a.m. to October 5, 2010, 5 p.m., Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037 which was published in the **Federal Register** on August 25, 2010, 75 FR 52357.

The meeting will be one day only October 4, 2010. The meeting time and location remain the same. The meeting is closed to the public.

Dated: August 26, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22090 Filed 9–2–10; 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: Oncology 2—Translational Clinical Integrated Review Group, Basic Mechanisms of Cancer Therapeutics Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marina del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.

Contact Person: Lambratu Rahman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: October 7–8, 2010.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Soheyla Saadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Clinical Oncology Study Section.

Date: October 11–12, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Long Beach and Executive Meeting Center, 701 West Ocean Boulevard, Long Beach, CA 90831.

Contact Person: Malaya Chatterjee, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *chatterm@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group, Neurological, Aging and Musculoskeletal Epidemiology Study Section.
Date: October 12–13, 2010.
Time: 7:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005.
Contact Person: Heidi B Friedman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–1721, *hfriedman@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group, Molecular and Cellular Hematology.
Date: October 12–13, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Delia Tang, M.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–379–9827, *tangd@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group, Biology and Diseases of the Posterior Eye Study Section.
Date: October 12–13, 2010.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael H Chaitin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group, Gastrointestinal Mucosal Pathobiology Study Section.
Date: October 12, 2010.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Peter J. Perrin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group, Tumor Progression and Metastasis Study Section.
Date: October 13–14, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.
Contact Person: Rolf Jakobi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA Panel: Pace of Drug Abuse Research Using Existing Research Data.
Date: October 13–14, 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: Bob Weller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694, *wellerr@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Cardiac Contractility, Hypertrophy, and Failure Study Section.
Date: October 13–14, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel and Suites, 2033 M Street, NW., Washington, DC 20036.
Contact Person: Olga A Tjurmina, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Respiratory Integrative Biology and Translational Research Study Section.
Date: October 13–14, 2010.
Time: 8:30 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Everett E Sinnett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@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 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22128 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 Library of Medicine Special Emphasis Panel; G08.
Date: October 28–29, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.
Contact Person: Arthur A. Petrosian, PhD, Chief Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, *petrosia@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 30, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22125 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review Conference Grant Application (R13).

Date: October 4, 2010.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst. of Dental & Craniofacial Research, NIH 6701 Democracy Blvd., Room 672, MSC 4878, Bethesda, MD 20892–4878, 301–594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22124 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Subcommittee.

Date: October 28–29, 2010.

Time: 9 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22107 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: October 15, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, Maryland 20852.

Contact Person: Dennis E. Leszczynski, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5b01, Bethesda, MD 20892, (301) 435–2717, *leszczyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 94.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: August 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22100 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: October 27, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, National Institutes of Health, NICHD, DSR, 6100 Executive Blvd., Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22097 Filed 9–2–10; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Musculoskeletal Development and Immunology.

Date: September 8, 2010.

Time: 12 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: Daniel F McDonald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.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.

(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 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22096 Filed 9–2–10; 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 Mitochondrial Dysfunction, Oxidative Stress, and Senescence.

Date: October 25, 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 2C12, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Bita Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814. 301–402–7701. *nakhaib@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel, Stem Cells and Genomic Integrity Through Senescense.

Date: November 3, 2010.

Time: 12 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: Bita Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814. 301–402–7701. *nakhaib@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 26, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22109 Filed 9–2–10; 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: September 27–28, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Alexandria, 400 Courthouse Square, Alexandria, VA 22314.

Contact Person: Priscilla B Chen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: September 28–29, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jean D Sipe, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, *sipej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Initiation and Progression.

Date: September 29, 2010.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Rolf Jakobi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Structure and Regeneration Study Section.
Date: October 4–5, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Daniel F McDonald, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.
Date: October 4–5, 2010.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Aftab A Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 594–6376, *ansaria@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.
Date: October 7–8, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: William A. Greenberg, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.
Date: October 11–12, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Auditory Neuroscience.
Date: October 11–12, 2010.
Time: 8 a.m. to 8 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: John Bishop, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Bioengineering, Technology and Surgical Sciences Study Section.
Date: October 11–12, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn San Francisco Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.
Contact Person: Khalid Masood, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodegenerative Disorders.
Date: October 11–12, 2010.
Time: 12 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
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 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22120 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cellular and Molecular Biology of the Kidney Study Section, October 4, 2010, 8 a.m. to October 5, 2010, 5 p.m., Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on August 24, 2010, 75 FR 52009–52010.

The meeting will be one day only October 4, 2010, from 8 a.m. to 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: August 30, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. C1–2010–22119 Filed 9–2–10; 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; Menopause and Sleep Disorders.
Date: October 13, 2010.
Time: 8:30 a.m. to 11 a.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: 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; Long-term Effects of Early Education.
Date: October 22, 2010.
Time: 10 a.m. to 1 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: 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; NIA Institutional Research Training Grants.
Date: October 28–29, 2010.
Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Alfonso R. Latoni, PhD, Deputy Chief And Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–402–7702, *Alfonso.Latoni@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Pathways to Health and Illness.

Date: December 10, 2010.

Time: 12 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: Jeannette L. Johnson, PhD, Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2c212, Bethesda, MD 20892, 301–402–7705, *johnsonj9@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 26, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22106 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel; NCCAM Education Panel.

Date: October 25–26, 2010.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Peter Kozel, PhD, Scientific Review Officer, NCCAM, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, 301–496–8004, *kozelp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: *August 30, 2010.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22094 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Disparities, Cancer Risk and Prognostic Factors, PO1.

Date: September 28–29, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Wlodek Lopaczynski, M.D., PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd. Room 8131, Bethesda, MD 20892, 301–594–1402, *lopacw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SPORE in Sarcoma, Brain, Liver, Lung, and Prostate Cancers.

Date: September 29–30, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Shamala K. Srinivas, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8123, Bethesda, MD 20892, 301–594–1224, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Preclinical Pharmacokinetic and Pharmacological Studies.

Date: September 30–October 1, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Viatcheslav A Soldatenkov, M.D., PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd Room 8057, Bethesda, MD 20892–8329, 301–451–4758, *soldatenkovv@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative Technology Development.

Date: October 13, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Jeffrey E. DeClue, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8059, Bethesda, MD 20892–8329, 301–496–7904, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Quantitative Imaging for Evaluation of Responses to Cancer Therapies.

Date: October 25, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton/Washington DC North, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Officer, Special Review Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7147, Bethesda, MD 20892–8329, 301496–7576, *bielatk@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Strategic Partnering to Evaluate Cancer Signatures (SPECS II) (U01).

Date: November 3, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Alexandria, 400 Courthouse Square, Alexandria, VA 22314.

Contact Person: Marvin L Salin, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH,

6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 26, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22093 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The 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 materials, 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 of Neurological Disorders and Stroke Special Emphasis Panel; T32 Training Grants.

Date: October 19–20, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The W Chicago Lakeshore, 644 N. Lakeshore Drive, Chicago, IL 60611.

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, DHHS/NIH/NINDS/DER/SRB, Neuroscience Center, 6001 Executive Blvd., Suite 3203, MSC 9529, Bethesda, MD 20892–9529, 301–496–5388, *wiethorp@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 27, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22088 Filed 9–2–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS Computer Match No. 2010–01; HHS Computer Match No. 1006]

Privacy Act of 1974

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Health Administration Center (HAC) of the Department of Veteran Affairs. We have provided background information about the proposed matching program in the "Supplementary Information" section below. The Privacy Act provides an opportunity for interested persons to comment on the proposed matching program. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation. *See* "Effective Dates" section below for comment period.

DATES: *Effective Dates:* CMS filed a report of the CMP with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Governmental Affairs, and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on *August 27, 2010.* We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication in the **Federal Register**, whichever is later. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Walter Stone, CMS Privacy Officer, Division of Information Security & Privacy Management (DISPM), Enterprise Architecture and Strategy Group (EASG), Office of Information Services (OIS), CMS, Mailstop N1–24–08, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

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 manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals 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 individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records (SOR) 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 agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: August 30, 2010.

Michelle Snyder,

Deputy Chief Operating Officer, Centers for Medicare and Medicaid Services.

Computer Match No. 2010–01

NAME:

"Computer Matching Agreement Between the Centers for Medicare & Medicaid Services (CMS) and the Health Administration Center (HAC) of the Department of Veterans Affairs for Verification of CHAMPVA Eligibility".

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services, and Health Administration Center (HAC) of the Department of Veterans Affairs.

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This Computer Matching Program (CMP) is executed to comply with the provisions of Public Laws (Pub. L.) 93–82, 94–581, 102–190, and 107–14 (codified at Title 38 United States Code (U.S.C.) 1713, renumbered Title 38 U.S.C. 1781), which restrict CHAMPVA eligibility for benefits dependent upon a beneficiary's Medicare Part A and Part B status. This computer match will match CHAMPVA applicants and beneficiaries with Medicare Part A and B beneficiaries.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of this computer matching agreement is to establish the conditions, safeguards and procedures under which the CMS and HAC will conduct a computer-matching program to determine entitlement to CHAMPVA benefits. Under the terms of this matching agreement, HAC will provide to CMS a list of social security numbers (SSN) for all CHAMPVA eligible beneficiaries who may also be eligible for Medicare benefits. This information is maintained in HAC's System of Records (SOR) entitled "Health Administration Center Civilian Health and Medical Program Records-VA." CMS agrees to conduct a computer match of the SSNs of beneficiaries provided by HAC against the information found in CMS's Enrollment Database (EDB) SOR. HAC will receive the results of the computer match in order to determine a beneficiary's eligibility for care under CHAMPVA.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

Upon establishment of the CHAMPVA program under Public Law 93–82, CHAMPVA entitlement will be terminated when any individual becomes eligible for Medicare Part A (Hospital Insurance) on a non-premium basis. Public Law 94–581 provided for reinstatement of CHAMPVA as second payer for beneficiaries aged 65 and over who exhausted a period of Medicare Part (Hospital Insurance). These beneficiaries must also be enrolled in Medicare Part B (Medical Insurance) in order to retain their CHAMPVA entitlement. Public Law 102–190 extended CHAMPVA benefit to age 65 for any beneficiary eligible for Medicare Part A on the basis of disability/end stage renal disease (ESRD) only if that individual is also enrolled in Medicare Part B. Public Law 107–14 provided for extending benefit coverage for beneficiaries over the age of 65 years if the beneficiary is in receipt of Medicare Part A and Medicare Part B.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM

SYSTEMS OF RECORDS

RECORDS MAINTAINED BY HAC

The information used in this matching program is maintained in the HAC system identified as 54VA16, entitled "Health Administration Center Civilian Health and Medical Program Records-VA," last published at 68 FR 53784 (September 12, 2003). SSNs of CHAMPVA beneficiaries will be released to CMS pursuant to the routine use number 21 as set forth in the system notice.

RECORDS MAINTAINED BY CMS

The matching program will be conducted with data maintained by CMS in the EDB, System No. 09–70–0502, published at 67 FR 3203 (January 23, 2002). Matched data will be released to HAC pursuant to the routine use number 2 as set forth in the system notice.

INCLUSIVE DATES OF THE MATCH:

The CMP shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. 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. 2010–22108 Filed 9–2–10; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5390–N–01]

Notice of Availability: Notice of Funding Availability (NOFA) for the Fiscal Year (FY) 2009 Section 202 Demonstration Pre-Development Grant Program

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability on its Web site of the applicant information, submission deadlines, funding criteria and other requirements for the FY2009 Section 202 Demonstration Pre-Development Grant Program NOFA. Approximately $20 million is made available through this NOFA, by the Omnibus Appropriations Act, 2009 (Pub. L. 111–8, approved March 11, 2009). The purpose of the Section 202 Demonstration Pre-Development Grant Program is to assist Sponsors of projects that receive Fund Reservation Awards pursuant to the FY 2009 NOFA for the Section 202 Supportive Housing for the Elderly Program by providing pre-development grant funding for architectural and engineering work, site control, and other planning related expenses that are eligible for funding under the Section 202 Supportive Housing for the Elderly Program.

The notice providing information regarding the application process, funding criteria and eligibility requirements can be found using the Department of Housing and Urban Development agency link on the Grants.gov/Find Web site at *http://www.grants.gov/search/agency.do.* A link to Grants.gov is also available on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The Catalogue of Federal Domestic Assistance (CFDA) number for the Section 202 Demonstration Pre-Development Program is 14.157. Applications must be submitted electronically through Grants.gov.

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in the program NOFA. Questions regarding the 2009 General Section should be directed to the Office of Departmental Grants Management and Oversight at 202–708–0667 (this is not a toll-free number) or the NOFA Information Center at 1–800–HUD–8929 (toll-free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

Dated: *August 30, 2010.*

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 2010–22082 Filed 9–2–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary: Renewal of the Lake Champlain Sea Lamprey Control Alternatives Workgroup

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior (Secretary), after consultation with the General Services Administration, has reestablished the charter for the Lake Champlain Sea Lamprey Control Alternatives Workgroup (Workgroup) for 2 years. The Workgroup provides an opportunity for stakeholders to give policy and technical advice on efforts to develop and implement sea lamprey control techniques alternative to lampricides in Lake Champlain.

FOR FURTHER INFORMATION CONTACT: Dave Tilton, Fish and Wildlife Service, Western New England Complex, 11 Lincoln Street, Essex Junction, VT 05452; 802–872–0629, extension 12.

SUPPLEMENTARY INFORMATION: The Workgroup conducts its operations in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix). It reports to the Secretary through the Fish and Wildlife Service and Lake Champlain Fish and Wildlife Management Cooperative and functions solely as an advisory body. The Workgroup provides recommendations and advice to the Cooperative on:

- Feasible and appropriate sea lamprey management methods alternative to lampricides;
- Funding priorities for research and/or demonstration projects;
- Facilitating coordinated research between Lake Champlain and the Great Lakes; and
- Development of requests for proposals, project proposals, and research efforts affecting the Lake Champlain Basin.

The Workgroup consists of no more than 25 members and alternates appointed by the Secretary for 3-year terms. Up to five of the members may be special Government employees, selected for their scientific expertise. In addition, up to 20 members of the Workgroup will represent those with an interest in and a commitment to the Lake Champlain Basin's natural resources and its environmental quality. The States of Vermont and New York will each have a representative on the Workgroup. Other members will be selected from, but not limited to, the following interest groups:

(1) Recreational and charter fishermen, (2) sportfishing organizations, (3) environmental organizations, (4) general public residing within the Lake Champlain area, and (5) academic research and educational personnel. These members must be senior-level representatives with knowledge about fishery restoration objectives within the Lake Champlain Basin, including sea lamprey control, and must have the ability to represent their designated constituencies.

We have filed a copy of the Working Group's charter with the Committee Management Secretariat, General Services Administration; Committee on Environment and Public Works, United States Senate; Committee on Natural Resources, United States House of Representatives; and the Library of Congress.

The Certification for reestablishment is published below.

Certification

I hereby certify that the Lake Champlain Sea Lamprey Control Alternatives Workgroup is necessary and is in the public interest in connection with the performance of duties pursuant to the Department of the Interior's authority under the Lake Champlain Basin Program (33 U.S.C. 1270) and the Anadromous Fish Conservation Act (16 U.S.C. 757a–757g).

Dated: August 19, 2010.

Ken Salazar,

Secretary of the Interior.

[FR Doc. 2010–22059 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation, and Enforcement

[Docket No. MMS–2008–MRM–0031]

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEM), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0136).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in 30 CFR parts 202, 204, 206, and 210. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. We consolidated this ICR and ICR 1010–0090, Stripper Royalty Rate Reduction Notification, in order to facilitate program wide review of Federal oil and gas valuation. The new title of this ICR is "30 CFR Parts 202, 204, 206, and 210, Federal Oil and Gas Valuation."

DATES: Submit written comments on or before October 4, 2010.

ADDRESSES: Submit written comments by either FAX (202) 395–6566 or e-mail (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0136).

Please also submit a copy of your comments on this ICR to BOEM by any of the following methods. Please use "ICR 1010–0136" as an identifier in your comment.

- Electronically go to *http://www.regulations.gov.* In the entry titled "Enter Keyword or ID," enter MMS–2008–MRM–0031, and then click search. Follow the instructions to submit public comments. The BOEM will post all comments.
- Mail comments to Hyla Hurst, Regulatory Specialist, Bureau of Ocean Energy Management, Regulation, and Enforcement, Minerals Revenue Management, P.O. Box 25165, MS 61013B, Denver, Colorado 80225. Please reference ICR 1010–0136 in your comments.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ICR 1010–0136 in your comments.

FOR FURTHER INFORMATION CONTACT: Hyla Hurst, telephone (303) 231–3495, or e-mail *hyla.hurst@boemre.gov.* You may also contact Hyla Hurst to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Parts 202, 204, 206, and 210, Federal Oil and Gas Valuation.

OMB Control Number: 1010–0136.

Bureau Form Number: Forms MMS–4377 and MMS–4393.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary is required by various laws to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected in accordance with applicable laws. Public laws pertaining to mineral leases on Federal and Indian lands are posted on our Web site at *http://www.mrm.boemre.gov/Laws_R_D/PublicLawsAMR.htm.*

I. General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals.

II. Information Collections

We use the information collected in this ICR to ensure that royalty is accurately valued and appropriately paid on oil and gas produced from Federal onshore and offshore leases. Please refer to the burden hour table for all reporting requirements and associated burden hours. All data submitted is subject to subsequent audit and adjustment.

A. Federal Oil and Gas Valuation Regulations

The valuation regulations at 30 CFR part 206, subparts C and D, mandate that companies collect and/or submit information used to value their Federal oil and gas, including (1) transportation and processing allowances; and (2) regulatory allowance limitation information. Companies report certain data on Form MMS–2014, Report of Sales and Royalty Remittance (OMB Control Number 1010–0139). The information requested is the minimum necessary to carry out our mission and places the least possible burden on respondents. If BOEM does not collect this information, both Federal and state governments may incur a loss of royalties.

Transportation and Processing Regulatory Allowance Limits

Lessees may deduct the reasonable, actual costs of transportation and processing from Federal royalties. These allowances are reported on Form MMS–2014.

Request To Exceed Regulatory Allowance Limitation, Form MMS–4393

Lessees may request to exceed regulatory limitations. Upon proper application from the lessee, BOEM may approve an oil or gas transportation allowance in excess of 50 percent or a gas processing allowance in excess of 66⅔; percent on Federal leases. Form MMS–4393 is used for both Federal and Indian leases to request to exceed allowance limitations. This ICR covers only Federal leases; therefore we have not included burden hours for Form MMS–4393 for Indian leases in this ICR. Burden hours for Form MMS–4393 for Indian leases are included in OMB Control Number 1010–0103.

B. Accounting and Auditing Relief for Marginal Properties

In 2004, we amended our regulations to comply with section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. The regulations provide guidance for lessees and designees seeking accounting and auditing relief for qualifying Federal marginal properties. Under the regulations, both BOEM and the state concerned must approve any relief granted for a marginal property.

C. Stripper Oil Royalty Rate Reduction Program

Under 43 CFR 3103.4–2, the Stripper Oil Royalty Rate Reduction Program (Stripper Oil Program) was established by the Bureau of Land Management (BLM), the surface management agency for Federal onshore leases. The Minerals Revenue Management (MRM), who administered the Stripper Oil Program for BLM, approved royalty rate reductions for operators of stripper oil properties for applicable sales periods from October 1, 1992, through January 31, 2006. Effective February 1, 2006, the reduced royalty rates under this program were terminated. This change is not currently reflected in the CFR; however, BLM is processing a final rule to remove this citation from the regulations.

For production through January 31, 2006, reporters used Form MMS–4377, Stripper Royalty Rate Reduction Notification, to notify MRM of royalty rate changes. Although the royalty rate reductions were terminated, MRM continues to verify previously submitted notifications and may require the operator to submit an amended Form MMS–4377.

III. OMB Approval

We are requesting OMB approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge his/her duties and may also result in loss of royalty payments. Proprietary information submitted to BOEM under this collection is protected, and no items of a sensitive nature are included in this information collection.

For information collections relating to valuation requirements, responses are mandatory. For the remaining information collections in this ICR, responses are required to obtain a benefit.

Frequency: Annually and on occasion.

Estimated Number and Description of Respondents: 120 Federal lessees/designees and 7 states for Federal oil and gas valuation; and 150 lessees/lessors for the Stripper Oil Program.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 9,378 hours.

We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
PART 202—ROYALTIES Subpart C—Federal and Indian Oil				
202.101	202.101 Oil volumes are to be reported in barrels of clean oil of 42 standard U.S. gallons (231 cubic inches each) at 60 °F * * *.	Burden covered under OMB Control Number 1010–0139.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	Subpart D—Federal Gas			
202.152(a) and (b)	202.152(a)(1) If you are responsible for reporting production or royalties you must: (i) Report gas volumes and British thermal unit (Btu) heating values, if applicable, under the same degree of water saturation; (ii) Report gas volumes in units of 1,000 cubic feet (mcf); and (iii) Report gas volumes and Btu heating value at a standard pressure base of 14.73 pounds per square inch absolute (psia) and a standard temperature base of 60 °F * * *. (b) Residue gas and gas plant product volumes shall be reported as specified in this paragraph * * *.	Burden covered under OMB Control Number 1010–0139.		
	PART 204—ALTERNATIVES FOR MARGINAL PROPERTIES **Subpart C—Accounting and Auditing Relief**			
204.202(b)(1)	204.202(b) To use the cumulative royalty reports and payments relief option, you must do all of the following: (1) Notify MMS in writing by January 31 of the calendar year for which you begin taking your relief * * *.	40	1	40
204.202(b)(2) and (b)(3)	204.202(b)(2) Submit your royalty report and payment * * * by the end of February of the year following the calendar year for which you reported annually * * *. If you have an estimated payment on file, you must submit your royalty report and payment by the end of March of the year following the calendar year for which you reported annually; (3) Use the sales month prior to the month that you submit your annual report and payment * * * for the entire previous calendar year's production for which you are paying annually * * *.	Burden covered under OMB Control Number 1010–0139.		
204.202(b)(4), (b)(5), (c), (d)(1), (d)(2), (e)(1), and (e)(2).	204.202(b) To use the cumulative royalty reports and payments relief option, you must * * * (4) Report one line of cumulative royalty information on Form MMS–2014 for the calendar year * * * and (5) Report allowances on Form MMS–2014 on the same annual basis as the royalties for your marginal property production. (c) If you do not pay your royalty by the date due in paragraph (b) of this section, you will owe late payment interest * * * from the date your payment was due under this section until the date MMS receives it * * *. (d) If you take relief you are not qualified for, you may be liable for civil penalties. Also you must: (1) Pay MMS late payment interest determined under 30 CFR 218.54 * * * (2) Amend your Form MMS–2014 * * * (e) If you dispose of your ownership interest in a marginal property for which you have taken relief * * * you must: (1) Report and pay royalties for the portion of the calendar year for which you had an ownership interest; and (2) Make the report and payment by the end of the month after you dispose of the ownership interest in the marginal property. If you do not report and pay timely, you will owe interest * * * from the date the payment was due * * *.	Burden covered under OMB Control Number 1010–0139.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
204.203(b), 204.205(a) and (b), and 204.206(a)(3)(i) and (b)(1).	204.203(b) You must request approval from MMS * * * before taking relief under this option.	200	1	200
204.208(c)(1), (d)(1), and (e).	204.208(c) If a State decides * * * that it will or will not allow one or both of the relief options * * * within 30 days * * * the State must: (1) Notify the Associate Director for Minerals Revenue Management, MMS, in writing, of its intent to allow or not allow one or both of the relief options * * * (d) If a State decides in advance * * * that it will not allow one or both of the relief options * * * the State must: (1) Notify the Associate Director for Minerals Revenue Management, MMS, in writing, of its intent to allow one or both of the relief options * * * (e) If a State does not notify MMS * * * the State will be deemed to have decided not to allow either of the relief options * * *	40	7	280
204.209(b)	204.209(b) If a property is no longer eligible for relief * * * the relief for the property terminates as of December 31 of that calendar year. You must notify MMS in writing by December 31 that the relief for the property has terminated * * *	6	1	6
204.210(c) and (d)	204.210(c) * * * the volumes on which you report and pay royalty * * * must be amended to reflect all volumes produced on or allocated to your lease under the nonqualifying agreement as modified by BLM * * *. Report and pay royalties for your production using the procedures in § 204.202(b). (d) If you owe additional royalties based on the retroactive agreement approval and do not pay your royalty by the date due in § 204.202(b), you will owe late payment interest determined under 30 CFR 218.54 from the date your payment was due under § 204.202(b)(2) until the date MMS receives it.	Burden covered under OMB Control Number 1010–0139.		
204.214(b)(1) and (b)(2)	204.214(b) If you pay minimum royalty on production from a marginal property during a calendar year for which you are taking cumulative royalty reports and payment relief, and: (1) The annual payment you owe under this subpart is greater than the minimum royalty you paid, you must pay the difference between the minimum royalty you paid and your annual payment due under this subpart; or (2) The annual payment you owe under this subpart is less than the minimum royalty you paid, you are not entitled to a credit because you must pay at least the minimum royalty amount on your lease each year.	Burden covered under OMB Control Number 1010–0139.		
Accounting and Auditing Relief Subtotal			10	526
PART 206—PRODUCT VALUATION **Subpart C—Federal Oil**				
206.102(e)(1)	206.102(e) If you value oil under paragraph (a) of this section: (1) MMS may require you to certify that your or your affiliate's arm's-length contract provisions include all of the consideration the buyer must pay, either directly or indirectly, for the oil.	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.103(a)(1), (a)(2), and (a)(3).	206.103 This section explains how to value oil that you may not value under § 206.102 or that you elect under § 206.102(d) to value under this section. First determine whether paragraph (a), (b), or (c) of this section applies to production from your lease, or whether you may apply paragraph (d) or (e) with MMS approval. (a) *Production from leases in California or Alaska.* Value is the average of the daily mean ANS spot prices published in any MMS-approved publication during the trading month most concurrent with the production month * * *. (1) To calculate the daily mean spot price * * * (2) Use only the days * * * (3) You must adjust the value * * *	45	5	225
206.103(a)(4)	206.103(a)(4) After you select an MMS-approved publication, you may not select a different publication more often than once every 2 years, * * *	8	2	16
206.103(b)(1)	206.103(b) *Production from leases in the Rocky Mountain Region.* * * * (1) If you have an MMS-approved tendering program, you must value oil * * *	400	2	800
206.103(b)(1)(ii)	206.103(b)(1)(ii) If you do not have an MMS-approved tendering program, you may elect to value your oil under either paragraph (b)(2) or (b)(3) of this section * * *.	400	2	800
206.103(b)(4)	206.103(b)(4) If you demonstrate to MMS's satisfaction that paragraphs (b)(1) through (b)(3) of this section result in an unreasonable value for your production as a result of circumstances regarding that production, the MMS Director may establish an alternative valuation method.	400	2	800
206.103(c)(1)	206.103(c) *Production from leases not located in California,* Alaska or the Rocky Mountain Region. (1) Value is the NYMEX price, plus the roll, adjusted for applicable location and quality differentials and transportation costs under § 206.112.	50	10	500
206.103(e)(1) and (e)(2)	206.103(e) *Production delivered to your refinery and the NYMEX price or ANS spot price is an unreasonable value.* (1) * * * you may apply to the MMS Director to establish a value representing the market at the refinery if: * * * (2) You must provide adequate documentation and evidence demonstrating the market value at the refinery * * *.	330	2	660
206.105	206.105 If you determine the value of your oil under this subpart, you must retain all data relevant to the determination of royalty value * * *.	Burden covered under OMB Control Number 1010–0139.		
206.107(a)	206.107(a) You may request a value determination from MMS * * *	40	10	400
206.109(c)(2)	206.109(c) *Limits on transportation allowances.* (2) You may ask MMS to approve a transportation allowance in excess of the limitation in paragraph (c)(1) of this section * * *. Your application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for MMS to make a determination * * *	8	2	16

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.110(a)	206.110(a) * * *. You must be able to demonstrate that your or your affiliate's contract is at arm's length * * *.	AUDIT PROCESS. See note.		
206.110(d)(3)	206.110(d) If your arm's-length transportation contract includes more than one liquid product, and the transportation costs attributable to each product cannot be determined * * * (3) You may propose to MMS a cost allocation method * * *	20	2	40
206.110(e)	206.110(e) If your arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, then you must propose an allocation procedure to MMS.	20	1	20
206.110(e)(1) and (e)(2)	206.110(e)(1) * * * If MMS rejects your cost allocation, you must amend your Form MMS–2014 * * * (2) You must submit your initial proposal, including all available data, within 3 months after first claiming the allocated deductions on Form MMS–2014.	Burden covered under OMB Control Number 1010–0139.		
206.110(g)(2)	206.110(g) If your arm's-length sales contract includes a provision reducing the contract price by a transportation factor, * * * (2) You must obtain MMS approval before claiming a transportation factor in excess of 50 percent of the base price of the product.	5	1	5
206.111(g)	206.111(g) To compute depreciation, you may elect to use either * * *. After you make an election, you may not change methods without MMS approval * * *.	30	1	30
206.111(k)(2)	206.111(k)(2) You may propose to MMS a cost allocation method on the basis of the values * * *.	30	1	30
206.111(l)(1) and (l)(3)	206.111(l)(1) Where you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to MMS * * *. (3) You must submit your initial proposal, including all available data, within 3 months after first claiming the allocated deductions on Form MMS–2014.	20	1	20
206.111(l)(2)	206.111(l)(2) * * * If MMS rejects your cost allocation, you must amend your Form MMS–2104 for the months that you used the rejected method and pay any additional royalty and interest due.	Burden covered under OMB Control Number 1010–0139.		
206.112(a)(1)(ii)	206.112(a)(1)(ii) * * * under an exchange agreement that is not at arm's length, you must obtain approval from MMS for a location and quality differential * * *.	80	1	80
206.112(a)(1)(ii)	206.112(a)(1)(ii) * * * If MMS prescribes a different differential, you must apply * * *. You must pay any additional royalties owed * * * plus the late payment interest from the original royalty due date, or you may report a credit * * *	20	2	40

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.112(a)(3) and (a)(4)	206.112(a)(3) If you transport or exchange at arm's length (or both transport and exchange) at least 20 percent, but not all, of your oil produced from the lease to a market center, determine the adjustment between the lease and the market center for the oil that is not transported or exchanged (or both transported and exchanged) to or through a market center as follows: * * * (4) If you transport or exchange (or both transport and exchange) less than 20 percent of your crude oil produced from the lease between the lease and a market center, you must propose to MMS an adjustment between the lease and the market center for the portion of the oil that you do not transport or exchange (or both transport and exchange) to a market center * * *. If MMS prescribes a different adjustment * * *. You must pay any additional royalties owed * * * plus the late payment interest from the original royalty due date, or you may report a credit * * *.	80	4	320
206.112(b)(3)	206.112(b)(3) * * * you may propose an alternative differential to MMS * * *. If MMS prescribes a different differential * * *. You must pay any additional royalties owed * * * plus the late payment interest from the original royalty due date, or you may report a credit * * *	80	4	320
206.112(c)(2)	206.112(c)(2) * * * If quality bank adjustments do not incorporate or provide for adjustments for sulfur content, you may make sulfur adjustments, based on the quality of the representative crude oil at the market center, of 5.0 cents per one-tenth percent difference in sulfur content, unless MMS approves a higher adjustment.	80	2	160
206.114	206.114 You or your affiliate must use a separate entry on Form MMS–2014 to notify MMS of an allowance based on transportation costs you or your affiliate incur.	Burden covered under OMB Control Number 1010–0139.		
	MMS may require you or your affiliate to submit arm's-length transportation contracts, production agreements, operating agreements, and related documents * * *.	AUDIT PROCESS. See note.		
206.115(a)	206.115(a) You or your affiliate must use a separate entry on Form MMS–2014 to notify MMS of an allowance based on transportation costs you or your affiliate incur.	Burden covered under OMB Control Number 1010–0139.		
206.115(c)	206.115(c) MMS may require you or your affiliate to submit all data used to calculate the allowance deduction * * *.	AUDIT PROCESS. See note.		
Subpart D—Federal Gas				
206.152 (b)(1)(i) and (b)(1)(iii).	206.152(b)(1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length * * *. (iii) * * * When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.	AUDIT PROCESS. See note.		
206.152(b)(2)	206.152(b)(2) * * * The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; * * *	80	1	80

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.152(b)(3)	206.152(b)(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the gas.	AUDIT PROCESS. See note.		
206.152(e)(1)	206.152(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value * * *.	Burden covered under OMB Control Number 1010–0139.		
206.152(e)(2)	206.152(e)(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the department of the Interior, or other person authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased or otherwise obtained by the lessee from the field or area or from nearby fields or areas.	AUDIT PROCESS. See note.		
206.152(e)(3)	206.152(e)(3) A lessee shall notify MMS if it has determined value pursuant to paragraph (c)(2) or (c)(3) of this section * * *.	10	10	100
206.152(g)	206.152(g) The lessee may request a value determination from MMS * * *. The lessee shall submit all available data relevant to its proposal * * *.	40	5	200
206.153(b)(1)(i) and (b)(1)(iii).	206.153(b)(1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length * * *. (iii) * * * When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.	AUDIT PROCESS. See note.		
206.153(b)(2)	206.153(b)(2) * * * The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; * * *	80	1	80
206.153(b)(3)	206.153(b)(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the residue gas or gas plant product.	AUDIT PROCESS. See note.		
206.153(e)(1)	206.153(e)(1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value * * *.	Burden covered under OMB Control Number 1010–0139.		
206.153(e)(2)	206.153(e)(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality residue gas and gas plant products sold, purchased or otherwise obtained by the lessee from the same processing plant or from nearby processing plants.	AUDIT PROCESS. See note.		
206.153(e)(3)	206.153(e)(2) A lessee shall notify MMS if it has determined any value pursuant to paragraph (c)(2) or (c)(3) of this section * * *.	10	2	20
206.153(g)	206.153(g) The lessee may request a value determination from MMS * * *. The lessee shall submit all available data relevant to its proposal * * *.	80	15	1,200

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.154(c)(4)	206.154(c)(4) * * * A lessee may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease * * *.	40	1	40
206.156(c)(3)	206.156(c)(3) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraphs (c)(1) and (c)(2) of this section * * *. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for MMS to make a determination * * *.	40	3	120
206.157(a)(1)(i)	206.157(a) *Arm's-length transportation contracts*. (1)(i) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length * * *.	AUDIT PROCESS. See note.		
	The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form MMS–2014.	Burden covered under OMB Control Number 1010–0139.		
206.157(a)(1)(iii)	206.157(a)(1)(iii) * * * When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	AUDIT PROCESS. See note.		
206.157(a)(2)(ii)	206.157(a)(2)(ii) * * * the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported * * *.	40	1	40
206.157(a)(3)	206.157(a)(3) If an arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS * * *. The lessee shall submit all relevant data to support its proposal * * *.	40	1	40
206.157(a)(5)	206.157(a)(5) * * * The transportation factor may not exceed 50 percent of the base price of the product without MMS approval.	10	3	30
206.157(b)(1)	206.157(b) *Non-arm's-length or no contract*. (1) The lessee must claim a transportation allowance by reporting it on a separate line entry on the Form MMS–2014 * * *.	Burden covered under OMB Control Number 1010–0139.		
206.157(b)(2)(iv) and (b)(2)(iv) (A).	206.157(b)(2)(iv) * * * After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of the MMS. (A) * * * After an election is made, the lessee may not change methods without MMS approval * * *.	100	1	100
206.157(b)(3)(i)	206.157(b)(3)(i) * * * Except as provided in this paragraph, the lessee may not take an allowance for transporting a product which is not royalty bearing without MMS approval.	100	1	100
206.157(b)(3)(ii)	206.157(b)(3)(ii) * * * the lessee may propose to the MMS a cost allocation method on the basis of the values of the products transported * * *.	100	1	100

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.157(b)(4)	206.157(b)(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS * * *. The lessee shall submit all relevant data to support its proposal * * *.	100	1	100
206.157(b)(5)	206.157(b)(5) You may apply for an exception from the requirement to compute actual costs under paragraphs (b)(1) through (b)(4) of this section.	100	1	100
206.157(c)(1)(i)	206.157(c) *Reporting Requirements. (1) Arm's-length contracts.* (i) You must use a separate entry on Form MMS–2014 to notify MMS of a transportation allowance.	Burden covered under OMB Control Number 1010–0139.		
206.157(c)(1)(ii)	206.157(c)(1)(ii) The MMS may require you to submit arm's-length transportation contracts, production agreements, operating agreements, and related documents * * *.	AUDIT PROCESS. See note.		
206.157(c)(2)(i)	206.157(c)(2) *Non-arm's-length or no contract.* (i) You must use a separate entry on Form MMS–2014 to notify MMS of a transportation allowance.	Burden covered under OMB Control Number 1010–0139.		
206.157(c)(2)(iii)	206.157(c)(2)(iii) The MMS may require you to submit all data used to calculate the allowance deduction * * *.	AUDIT PROCESS. See note.		
206.157(e)(2), (e)(3), and (f)(1).	206.157(e) *Adjustments.* (2) For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS. (3) For lessees transporting gas production from leases on the OCS, if the lessee's estimated transportation allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with its payments, in accordance with instructions provided by MMS * * *. (f) *Allowable costs in determining transportation allowances.* * * * (1) *Firm demand charges paid to pipelines.* * * * if you receive a payment or credit from the pipeline for penalty refunds, rate case refunds, or other reasons, you must reduce the firm demand charge claimed on the Form MMS–2014 by the amount of that payment. You must modify Form MMS–2014 by the amount received or credited for the affected reporting period and pay any resulting royalty and late payment interest due;	Burden covered under OMB Control Number 1010–0139.		
206.158(c)(3)	206.158(c)(3) Upon request of a lessee, MMS may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section * * *. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation for MMS to make a determination * * *.	80	8	640
206.158(d)(2)(i)	206.158(d)(2)(i) If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to MMS for an allowance for those costs * * *.	80	1	80
206.158(d)(2)(ii)	206.158(d)(2)(ii) * * * to retain the authority to deduct the allowance the lessee must report the deduction to MMS in a form and manner prescribed by MMS.	Burden covered under OMB Control Number 1010–0139.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
206.159(a)(1)(i)	206.159(a) *Arm's-length processing contracts.*	AUDIT PROCESS. See note.		
	(1)(i) * * *The lessee shall have the burden of demonstrating that its contract is arm's-length * * *. The lessee must claim a processing allowance by reporting it on a separate line entry on the Form MMS–2014.	Burden covered under OMB Control Number 1010–0139.		
206.159(a)(1)(iii)	206.159(a)(1)(iii) * * * When MMS determines that the value of the processing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's processing costs.	AUDIT PROCESS. See note.		
206.159(a)(3)	206.159(a)(3) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS * * *. The lessee shall submit all relevant data to support its proposal * * *.	20	1	20
206.159(b)(1)	206.159(b) *Non-arm's-length or no contract.* (1) * * * The lessee must claim a processing allowance by reflecting it as a separate line entry on the Form MMS–2014 * * *.	Burden covered under OMB Control Number 1010–0139.		
206.159(b)(2)(iv) and (b)(2)(iv) (A).	206.159(b)(2)(iv) * * * When a lessee has elected to use either method for a processing plant, the lessee may not later elect to change to the alternative without approval of the MMS. (A) * * * After an election is made, the lessee may not change methods without MMS approval * * *	100	1	100
206.159(b)(4)	206.159(b)(4) A lessee may apply to MMS for an exception from the requirements that it compute actual costs in accordance with paragraphs (b)(1) through (b)(3) of this section * * *.	100	1	100
206.159(c)(1)(i)	206.159(c) *Reporting requirements*—(1) *Arm's-length contracts.* (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.	Burden covered under OMB Control Number 1010–0139.		
206.159(c)(1)(ii)	206.159(c)(1)(ii) The MMS may require that a lessee submit arm's-length processing contracts and related documents * * *.	AUDIT PROCESS. See note.		
206.159(c)(2)(i)	206.159(c)(2) *Non-arm's-length or no contract.* (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.	Burden covered under OMB Control Number 1010–0139.		
206.159(c)(2)(iii)	206.159(c)(2)(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction * * *.	AUDIT PROCESS. See note.		
206.159(e)(2) and (e)(3)	206.159(e) *Adjustments.* (2) For lessees processing production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.	Burden covered under OMB Control Number 1010–0139.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR 202, 204, 206, and 210	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(3) For lessees processing gas production from leases on the OCS, if the lessee's estimated processing allowance exceeds the allowance based on actual costs, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with its payment, in accordance with instructions provided by MMS * * *			
Oil and Gas Valuation Subtotal			117	8,672
PART 210—FORMS AND REPORTS Subpart D—Special-Purpose Forms and Reports—Oil, Gas, and Geothermal				
210.155(a)	210.155(a) *General.* Operators who have been granted a reduced royalty rate by the Bureau of Land Management (BLM) * * * must submit Form MMS–4377, Stripper Royalty Rate Reduction Notification, under 43 CFR * * * **NOTE:** BLM terminated the benefits of this program and is processing a final rule to remove this program from the regulations.	1.2	150	180
Total			277	9,378

Note: AUDIT PROCESS—The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because MRM staff asks non-standard questions to resolve exceptions.

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour" cost burden associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency to "* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on April 12, 2010 (75 FR 18525), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 4, 2010.

Public Comment Policy: We will post all comments in response to this notice at *http://www.mrm.boemre.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We also will post all comments, including names and addresses of respondents, at *http://www.regulations.gov.* 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 view your personal identifying information, we cannot guarantee that we will be able to do so.

BOEM Information Collection Clearance Officer: Arlene Bajusz (703) 787–1025.

Dated: August 26, 2010.

Gregory J. Gould,

Associate Director for Minerals Revenue Management.

[FR Doc. 2010–22049 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–MR–W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14881–B and F–14881–D; LLAK965000–L14100000–KC0000–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 approving the conveyance of surface estate for certain lands to Koyuk Native Corporation, pursuant to the Alaska Native Claims Settlement Act. The subsurface estate in these lands will be conveyed to Bering Straits Native Corporation when the surface estate is conveyed to Koyuk Native Corporation. The lands are in the vicinity of Koyuk, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 8 S., R. 11 W.,
Sec. 3.

Containing 2.35 acres.

T. 4 S., R. 12 W.,
Secs. 20, 28, and 29.
Containing 557.17 acres.

Aggregating 559.52 acres.

Notice of the decision will also be published four times in the Nome Nugget.

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 October 4, 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, by e-mail at *ak.blm.conveyance@blm.gov,* or by telecommunication device (TTD) through the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

Eileen Ford,

Land Transfer Resolution Specialist, Land Transfer Adjudication II Branch.

[FR Doc. 2010–22067 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK927000 L54200000 FR0000 LVDIL09L0430; AA–086371]

Notice of Application for a Recordable Disclaimer of Interest for Lands Underlying the Kuskokwim River in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The State of Alaska has filed an application with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest from the United States in those lands underlying the Kuskokwim River in Southwestern Alaska. The State asserts that the Kuskokwim River was navigable and unreserved at the time of Statehood; therefore, title to the submerged lands passed to the State at the time of Statehood (1959). Certain lands included in the application are within the exterior boundary of the Yukon Delta National Wildlife Refuge, created by the Alaska National Interest Lands Conservation Act of 1980, and administered by the U.S. Fish and Wildlife Service.

DATES: All comments to this action should be received on or before December 2, 2010.

ADDRESSES: Comments on the State of Alaska's application or the BLM Draft Summary Report must be filed with the Chief, Branch of Survey Planning and Preparation (AK–9270), Division of Cadastral Survey, BLM Alaska State Office, 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Jack Frost, 907–271–5531; E-mail *Jack_Frost@blm.gov;* or visit the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html.*

SUPPLEMENTARY INFORMATION: On March 10, 2006, the State of Alaska filed an application for a Recordable Disclaimer of Interest pursuant to Section 315 of the Federal Lands Policy and Management Act and the regulations contained in 43 CFR Subpart 1864 for the lands underlying the Kuskokwim River (AA–086371). A Recordable Disclaimer of Interest, if issued, will confirm that the United States has no valid interest in the subject lands. This notice is intended to notify the public of the pending application and the State's grounds for supporting it. The State asserts that this river is navigable. Therefore, under the Equal Footing Doctrine, the Submerged Lands Act of 1953, the Submerged Lands Act of 1988, the Alaska Statehood Act, or any other legally cognizable reason, ownership of these lands underlying the river automatically passed from the United States to the State at the time of statehood in 1959.

The State's application, AA–086371, is for "all submerged lands lying within the bed of the Kuskokwim River, and all interconnected sloughs, between the ordinary high water lines of the left and right banks from its origins at the confluence with the South Fork of Kuskokwim River and North Fork of Kuskokwim River within Township 28 South, Range 22 East, Kateel River Meridian, Alaska, downstream to its confluence with the Kuskokwim Bay within Township 2 South, Range 77 West, Seward Meridian, Alaska." The State did not identify any known adverse claimant or occupant of the affected lands.

A final decision on the merits of the application will not be made before December 2, 2010. During the 90-day period, interested parties may comment on the State's application, AA–086371, and supporting evidence. Interested parties may also comment during this time on the BLM's Draft Summary Report. The State's application and the BLM Draft Summary Report may be viewed on the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html,* or in the BLM Public Room located at 222 West 7th Avenue, #13, Anchorage, Alaska 99513.

Comments filed with the Division of Cadastral Survey, including names and street addresses of commenters, will be available for public inspection at the BLM Alaska State Office (*see* **ADDRESSES** above), during regular business hours 7:30 a.m. to 4:30 p.m., Monday through Friday, except 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.

If no valid objection is received, a Disclaimer of Interest may be approved, if all else is proper, stating that the United States does not have a valid interest in these lands.

Dated: July 9, 2010.

Craig Frichtl,

Chief, Branch of Survey Planning and Preparation.

[FR Doc. 2010–22065 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB00000 L51010000.ER0000 LVRWF0900380 241A; 10–08807; MO#4500014355; TAS: 14X5017]

Notice of Availability of Draft Environmental Impact Statement for the Tonopah Solar Energy Crescent Dunes Solar Energy Project, Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Crescent Dunes Solar Energy Project, Nye County, Nevada, and by this Notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Crescent Dunes Solar Energy Project Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media news releases, and/or mailings.

ADDRESSES: You may submit comments on the Crescent Dunes Solar Energy Project Draft EIS by any of the following methods:

- *E-mail: crescent_dunes@blm.gov.*
- *Fax:* 775–482–7810.
- *Mail:* Timothy Coward, Renewable Energy Project Manager, BLM Tonopah Field Office, P.O. Box 911, Tonopah, Nevada 89049.

Copies of the Draft EIS for the Crescent Dunes Solar Energy Project are available at the BLM Tonopah Field Office and at the Battle Mountain District Office, 50 Bastian Road, Battle Mountain, Nevada, or at the following Web site: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.*

FOR FURTHER INFORMATION CONTACT: Timothy Coward, (775) 482–7800, BLM Tonopah Field Office, 1553 South Main Street, P.O. Box 911, Tonopah, Nevada 89049; *Timothy_Coward@blm.gov.*

SUPPLEMENTARY INFORMATION: Tonopah Solar Energy, LLC applied to the BLM for a 7,680-acre right-of-way (ROW) on public lands to construct a concentrated solar thermal power plant facility approximately 13 miles northwest of Tonopah, Nye County, Nevada. The proposed project is not expected to use the total acres applied for in the ROW application. The project is located within the southern portion of the Big Smoky Valley, north of U.S. Highway 95/6 along the Gabbs Pole Line Road (State Highway 89). The facility is expected to operate for approximately 30 years. The proposed solar power project would use concentrated solar power technology, using heliostats or mirrors to focus sunlight on a receiver erected in the center of the solar field (the power tower or central receiver). A heat transfer fluid is heated as it passes through the receiver and is then circulated through a series of heat exchangers to generate high-pressure steam. The steam is used to power a conventional Rankine cycle steam turbine, which produces electricity. The exhaust steam from the turbine is condensed and returned via feedwater pumps to the heat exchangers where steam is regenerated. Hybrid cooling processes would be used for this project to minimize water use while continuing to maintain efficient power generation. The plant design would generate a nominal capacity of 100 megawatts.

The project's proposed facility design includes the heliostat fields, a 653-foot central receiver tower, a power block, buildings, a parking area, a laydown area, evaporating ponds, and an access road. A single overhead 230-kilovolt transmission line would connect the plant to the nearby Anaconda Moly substation.

The Draft EIS describes and analyzes the proposed project's site-specific impacts on air quality, biological resources, cultural resources, water resources, geological resources, hazardous materials handling, land use, noise, paleontological resources, public health, socioeconomics, soils, traffic and transportation, visual resources, wilderness characteristics, waste management, worker safety, and fire protection. The Draft EIS also describes facility design engineering, efficiency, reliability, transmission system engineering, and transmission line safety.

Three action alternatives were analyzed in addition to the No Action alternative: the Proposed Action Alternative, Alternative 1, and Alternative 2. Alternative 2 is the BLM preferred alternative.

Scoping of the project occurred from November 24, 2009 through December 24, 2009. A total of 24 comments were received. Comments on cumulative impacts identified the affects to air quality to include criteria pollutant and "Dark Sky" attributes on the effects of the viewshed, and the availability of water for current and future use. Other comments were that the proposed project is located in an area of pediment adjacent to 2 highly mineralized mountain ranges which have identified molybdenum and lithium deposits.

Maps of the proposed project area and the alternatives being analyzed in the Draft EIS are available at the BLM Tonopah Field Office, the Battle Mountain District Office, and at: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.*

Please note that public comments and information submitted, including names, street addresses, and e-mail addresses of persons who submit comments, will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except 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.

Authority: 40 CFR 1506.6 and 1506.10.

Thomas J. Seley,

Manager, Tonopah Field Office.

[FR Doc. 2010–21958 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT01000.L16100000.DP0000. LXSS081D0000]

Notice of Availability of the Draft Jarbidge Field Office Resource Management Plan and Environmental Impact Statement, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Jarbidge Field Office planning area and by this

notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP/Draft EIS within 90 days following the date the Environmental Protection Agency publishes its notice of the availability of the Draft RMP/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

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

- *E-mail: ID_Jarbidge_RMP@blm.gov.*
- *Fax:* (208) 736–2375, Attention: Jarbidge Planning Team.
- *Mail:* Jarbidge Planning Team, BLM Jarbidge Field Office, 2536 Kimberly Road, Twin Falls, Idaho 83301.

Copies of the Jarbidge Draft RMP/Draft EIS are available in the Jarbidge Field Office at the above address or at the following Web site: *http://www.blm.gov/id/st/en/prog/planning/jarbidge_resource.html.*

FOR FURTHER INFORMATION CONTACT: Richard Vander Voet, Jarbidge Field Manager, or Aimee Betts, Jarbidge RMP Project Manager, telephone (208) 736–2350; address Jarbidge Field Office, 2536 Kimberly Road, Twin Falls, Idaho 83301.

SUPPLEMENTARY INFORMATION: The Draft RMP/Draft EIS addresses public land and resources managed by the Jarbidge Field Office in parts of Elmore, Owyhee, and Twin Falls Counties in south-central Idaho and Elko County in northern Nevada. These lands and resources are currently managed under the 1987 Jarbidge RMP, as amended. The planning area extends from the Bruneau River on the west to Salmon Falls Creek on the east, and from the Snake River on the north to the northern boundaries of the BLM Elko Field Office and the Humboldt-Toiyabe National Forest on the south. Although these counties have a combined population of approximately 160,000, Indian Cove, Murphy Hot Springs, Three Creek, and Roseworth are the only communities in the planning area. All have populations of less than 100 people. The majority of the planning area supports sagebrush steppe and seeded grasslands.

The Jarbidge RMP addresses management on approximately 1.4 million acres of public land and 1.6 million acres of Federal mineral estate in the Jarbidge Field Office. Planning decisions in the RMP will only apply to the BLM-administered public lands and mineral estate in the planning area. The Draft RMP/Draft EIS has been developed with broad public participation through a collaborative planning process in accordance with FLPMA and NEPA. Its purpose is to provide appropriate management direction for the Twin Falls District, Jarbidge Field Office that responds to the 2001 Land Use Plan Evaluation Report for the 1987 Jarbidge RMP, new information, changes in resource condition and user demands, and complies with a Stipulated Settlement Agreement (*WesternWatersheds Project* v. *K Lynn Bennett,* CV–04–181–S–BLW, under the jurisdiction of the United States District Court for the District of Idaho), while maintaining consistency with FLPMA.

The Draft RMP/Draft EIS includes a series of management actions, within six management alternatives, designed to achieve or maintain desired future conditions that have been defined through the planning process for various concerns including, but not limited to: vegetation, livestock grazing, recreation, energy development, and Areas of Critical Environmental Concern (ACEC).

- The No Action Alternative represents continuation of existing management under current management goals, objectives, and direction specified in the 1987 Jarbidge RMP, as amended.
- Alternative I focuses on enhancing and sustaining existing and historic uses of the planning area.
- Alternative II focuses on increasing commercial uses throughout the planning area.
- Alternative III focuses on restoring the resiliency of ecosystem structure and function through intensive management of fuels and enhanced fire suppression capabilities throughout the planning area.
- Alternative IV focuses on actively restoring the resiliency of ecosystem structure and function through restoration projects and managing uses. Alternative IV has two sub-alternatives (Alternative IV–A and Alternative IV–B) that differ in the size of two proposed ACECs. Alternative IV–B is the Preferred Alternative.
- Alternative V focuses on the restoration of habitats toward historic vegetation communities.

The Preferred Alternative has been identified as described in 40 CFR 1502.14(e). However, identification of this alternative does not represent final agency direction, and the Proposed RMP may reflect changes or adjustments based on information received during public comment, new information, or changes in BLM policies or priorities. The Proposed RMP may include objectives and actions described as portions of other analyzed alternatives. For this reason, the BLM invites and encourages comments on all objectives and actions described in the Draft RMP/Draft EIS.

Among the special designations under consideration within the range of alternatives, ACECs are proposed to protect certain resource values. There are three existing ACECs: Bruneau-Jarbidge, Salmon Falls Creek, and Sand Point; these ACEC designations would be carried forward in some alternatives, sometimes with changes in acreage.

Pertinent information regarding all proposed ACECs in the Preferred Alternative, including values, resource use limitations, and acreages are summarized below. Further information is available at the following Web site: *http://www.blm.gov/id/st/en/prog/planning/jarbidge_resource.html.*

Bruneau-Jarbidge ACEC (123,000 acres)

- Relevant and Important Values: Botanical, Cultural, Fish, Scenic, Wildlife.
- Limitations on the Following Uses: Livestock Grazing, Land Use Authorizations, Mineral Development.
- Other Restrictions: Managed as Visual Resource Management (VRM) Class I.

Inside Desert ACEC (41,000 acres)

- Relevant and Important Values: Botanical.
- Limitations on the Following Uses: Livestock Grazing, Recreation, Land Tenure Transactions, Mineral Development.
- Other Restrictions: Locate staging areas for fire suppression and rehabilitation activities outside the ACEC.

Jarbidge Foothills ACEC (66,000 acres)

- Relevant and Important Values: Botanical, Cultural, Fish, Wildlife.
- Limitations on the Following Uses: Livestock Grazing, Mineral Development.
- Other Restrictions: Managed as VRM Class I and II.

Lower Bruneau Canyon ACEC (1,000 acres)

- Relevant and Important Values: Aquatic, Botanical.
- Limitations on the Following Uses: Land Tenure Transactions, Mineral Development.

Sand Point ACEC (950 acres)

- Relevant and Important Values: Cultural, Geologic, Historic, Paleontological.
- Limitations on the Following Uses: Livestock Grazing, Land Use Authorizations, Mineral Development.

• Other Restrictions: Closed to fossil collection.

The following ACECs were proposed in alternatives other than the Preferred Alternative:

• Middle Snake ACEC for relevant and important botanical and fish values.

• Sagebrush Sea ACEC for relevant and important botanical, cultural, fish, and wildlife values.

• Salmon Falls ACEC for relevant and important botanical, fish, and scenic values

In addition, ACECs in the preferred alternative may also appear in other alternatives with different acreages and management prescriptions.

Please note that public comments and information submitted including names, street addresses, and e-mail addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except 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.

Following the public comment period, public comments will be used to prepare the Proposed Jarbidge RMP and Final EIS. The BLM will respond to each substantive comment by making appropriate revisions to the document or by explaining why a comment did not warrant a change. A Notice of the Availability of the Proposed RMP/Final EIS will be posted in the **Federal Register**.

Authority: 40 CFR 1506.6 and 1506.10; 43 CFR 1610.2.

Peter J. Ditton,

Acting Idaho State Director, Bureau of Land Management.

[FR Doc. 2010–21956 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service Concession Contracts; Implementation of Alternative Valuation Formula for Leasehold Surrender Interest Under the Signal Mountain Lodge and Leek's Marina Proposed Concession Contract, Grand Teton National Park

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service (NPS), by notice in the **Federal Register** dated February 1, 2010, invited public comments on a proposed alternative formula for the valuation of leasehold surrender interest (LSI) to be included in its proposed concession contract GRTE003–11 for operation of the Signal Mountain Lodge and Leeks Marina at Grand Teton National Park (new contract). LSI, established in 1998 by the terms of Public Law 105–391 (1998 Act), is the compensable interest in applicable real property improvements on park area lands made by a concessioner pursuant to the terms of a NPS concession contract. Additional public comment was sought by a May 26, 2010, **Federal Register** notice. NPS, after consideration of the public comments received in response to both notices, has adopted a final LSI alternative for the new contract.

FOR FURTHER INFORMATION CONTACT: Jo Pendry, Chief Commercial Services Program, 1201 Eye Street, NW., Washington, DC 20005.

SUPPLEMENTARY INFORMATION: Under Section 405(a)(3) of the 1998 Act, the standard formula for LSI value (standard LSI formula) for applicable capital improvements provided by a concessioner under a NPS concession contract is summarized as the initial construction cost of the related capital improvement, adjusted by the percentage increase or decrease in the Consumer Price Index (CPI) from the date of the approval of the substantial completion of the construction of the related capital improvement to the date of payment, less physical depreciation of the related capital improvement.

However, Section 405(a)(4) of the 1998 Act, starting in 2009, authorizes the inclusion of alternative LSI value formulas in NPS concession contracts estimated to have an LSI value in excess of $10,000,000 (such as the new contract).

Under this authority, NPS, in the February 1, 2010, **Federal Register** notice, proposed an alternative LSI formula that in general called for the straight-line depreciation of LSI value on a 40-year basis. However, the alternative also provided that the installation (or replacement) of fixtures would not result in increased LSI value. Two public comments were received in response to this notice.

By notice in the **Federal Register** dated May 26, 2010, NPS sought additional public comment on the proposal. Two comments were received in response to this notice.

NPS, in consideration of the public comments made in response to both public notices, has re-examined the financial and other circumstances of the new contract and the proposed LSI alternative. This re-examination led to consideration and adoption of a final LSI alternative. The final LSI alternative continues the 40-year depreciation of the LSI value of eligible capital improvements but eliminates the exclusion of additional LSI value for new fixtures called for by the proposed LSI alternative. This change addresses a primary concern expressed by commenters, the elimination of LSI value in new fixtures. Under the final LSI alternative, the LSI value of all eligible capital improvements, including new fixtures, will be depreciated on a straight-line basis over a 40-year period. In addition, the monthly depreciation schedule called for by the proposed LSI alternative has been changed to an annual basis in the interest of simplicity. The final LSI alternative for the new contract is generally described as follows:

(a) The reduction of the initial LSI value under the new contract on an annual straight-line depreciation basis applying a 40-year recovery period regardless of asset class.

(b) The reduction of the leasehold surrender interest value in capital improvements (as defined in the new contract) constructed or installed during the term of the new contract based on straight line depreciation and also applying a 40-year recovery period (on an annual basis) with no asset class distinctions.

Determinations

NPS has determined, after review of the particular financial and other circumstances of the new contract and consideration of public comments, that use of the final LSI alternative, in comparison to the standard LSI formula, is necessary in order to provide a fair return to the Government and to foster competition for the new contract by providing a reasonable opportunity for profit to the new concessioner. NPS also considers that the final LSI alternative is consistent with the objectives of the 1998 Act, particularly, as discussed below, with respect to the fair return it will provide to the Government and the new concessioner and the enhanced competition for the new contract that it will foster. These determinations are required by the 1998 Act with respect to alternative LSI formulas that are not based on the depreciation rules of the Federal income tax laws and regulations that were in effect in 1998. Although this final LSI alternative is based on the

Federal income tax laws and regulations that were in effect immediately before the enactment of the 1998 Act, NPS nonetheless made these determinations regarding the final LSI alternative as a good means to assess the relative merits of alternative methodologies.

Fair Return to the Government. With regard to a fair return to the Government, NPS has determined that the final LSI alternative is necessary to provide a fair return to the Government (as well as helping to provide a fair return to the new concessioner) under the terms of the new contract. NPS considers that the "fair return" to the Government reflects in part the requirement of the 1998 Act that NPS include in concession contracts a franchise fee payable to the Government that is based upon consideration of the probable value to the concessioner of the privileges granted by the contract. However, under the standard LSI formula, the amount of money that would be paid by the Government (directly or indirectly) for LSI as of the expiration of the new contract is inevitably speculative at the time of contract solicitation, contract award, and during the contract term. This is because the future CPI rate, the amount of future physical depreciation that will occur over the term of the new contract, and the cost to cure such future physical depreciation, must all be estimated in advance of the new contract by both NPS and prospective concessioners.

As a consequence, if the NPS were to establish the required minimum franchise fee for the new contract under the terms of the standard LSI formula, that minimum fee necessarily would reflect a speculative estimate of the amount of and cost to cure the physical depreciation that will occur during the contract term as well as speculative estimates of the annual CPI rate over the term of the new contract. Likewise, when a prospective concessioner offers to meet or exceed the minimum franchise fee established by NPS under the standard LSI formula, this business decision is necessarily made in reliance on speculative estimates of future CPI and future physical depreciation of LSI improvements.

For a simplified example, assuming an initial LSI value of $10 million at contract commencement, NPS may estimate that the related capital improvements will depreciate physically 30 percent over the term of the contract whereas a prospective concessioner may estimate that the same capital improvements will depreciate only 10 percent during the term of the contract. If the NPS estimate proves to be correct, the LSI value at contract expiration will be reduced by 30 percent, to $7 million (before CPI adjustment). If the concessioner's estimate proves to be right, the depreciation reduction will only be $1 million (before CPI adjustment). Such a difference in LSI value ($7 million v. $9 million) will have a severe impact on the respective returns to the Government and the concessioner.

The likelihood of a significant difference in physical deprecation estimates is very high. In a number of negotiated settlements of possessory interest values (a possessory interest is a compensable interest in real property improvements similar to LSI) between NPS and incumbent concessioners (in which the existing physical depreciation of the related capital improvements were estimated by both parties), the NPS estimate of existing physical depreciation exceeded that of the concessioner by very significant percentages. In this regard, the parties to these negotiations were estimating the amount of *existing depreciation,* a far less problematic task than estimating the amount of *future depreciation* of capital improvements that is required for the standard LSI formula.

The speculative nature of estimating LSI value under the standard LSI formula is also driven by its requirement that ending LSI value is subject to CPI adjustment. Future CPI, of course, may only be estimated. Further, the standard LSI formula requires the CPI adjustment to be made on the basis of the All Urban Consumers CPI. However, there is no assurance that the cost to cure depreciation at the expiration of the new contract will reflect the All Urban Consumers CPI. The inflation that may occur in the construction industry over the term of the new contract may be expected to differ significantly (higher or lower) from the All Urban Consumers CPI.

In these circumstances, the NPS estimate of ending LSI value made at the time of contract solicitation, if proven after contract expiration to have been overstated, would have resulted in a less than fair return to the Government (as a result of an unduly low minimum franchise fee that was based on depreciation and CPI assumptions which proved to be inaccurate).

For these reasons, NPS considers that the final LSI alternative is necessary to include in the new contract in order to provide a fair return to the Government under the new contract.

Fostering Competition. Elimination of the speculative nature of LSI value by using the final LSI alternative is also considered necessary to foster competition for the new contract by providing a reasonable opportunity for the concessioner to make a profit under the new contract. This is because prospective concessioners will know with a high degree of certainty (subject only to estimates of the value of any new capital improvements constructed or installed during the term of the contract) how much money they will be paid for LSI upon the expiration of the new contract. The final LSI alternative greatly reduces the speculation regarding CPI and physical depreciation required for proposed contracts by the standard LSI formula. The resulting lower risk and greater certainty in the business opportunity provides a reasonable opportunity for profit under the terms of the new contract. It should also encourage the private sector to apply for the new contract, thereby fostering competition.

NPS points out that the final LSI alternative for the new contract is projected to provide approximately the same rate of financial return for the new concessioner as would be provided under the standard LSI formula. This is because, in developing the minimum franchise fee for the new contract, NPS estimated that the proposed contract would provide the new concessioner with a reasonable opportunity to make a net profit in relation to capital invested and the obligations of the contract. This estimate took into consideration, among other matters, applicable industry rate of return expectations, the purchase price of the existing LSI improvements, and the expected LSI value that will be payable to the concessioner after contract expiration. If the standard LSI formula were utilized, the projected LSI value payment to the new concessioner would necessarily be considerably higher in order to avoid a windfall to the concessioner, resulting in a higher minimum franchise fee for the new contract.

The lower LSI value payment upon contract expiration provided by the final LSI alternative (as opposed to the significantly higher value provided by the standard LSI formula) results in a lower minimum franchise fee during the term of the new contract in order to achieve the same approximate projected rate of return to the concessioner over the term of the new contract. Thus, the final LSI alternative results in increased cash flows to the concessioner during the entire term of the contract rather than a higher payment of LSI at the expiration of the contract under the standard LSI formula. It is likely that many prospective concessioners would consider the higher cash flows provided by the LSI alternative throughout the

contract term to be to their business advantage.

Fostering competition for concession contracts is a serious concern to NPS. Since the passage of the 1998 Act on November 22, 1998, four concession contract opportunities involving LSI in excess of $10 million have been solicited. NPS did not receive proposals under these solicitations from any entity that was not a current NPS concessioner. In fact, the last time NPS received a proposal from a non-current NPS concessioner for a concession contract with an LSI or possessory interest value (a right of compensation similar to LSI) in excess of $10 million was in 1992 (the Yosemite contract). Tellingly, the Yosemite contract provided for straight-line amortization of its required possessory interest investment in a manner very much like the final LSI alternative for the new contract.

NPS considers that a major reason for this record is the generally required utilization of the standard LSI formula. The standard formula is unlike usual private sector transactions of a similar nature (in addition to containing the speculative depreciation and CPI elements discussed above). Private firms that are not familiar with the NPS concession program have indicated that the complexities and uncertainty associated with the standard LSI formula have deterred them from submitting offers for concession opportunities. The NPS believes use of the final LSI alternative in the new contract will foster competition for it by providing interested offerors with a reasonable opportunity for profit that, with respect to LSI, is assured, understandable and more comparable to practices in the private sector.

The final LSI alternative will also enhance competition for the concession contract that will succeed the new contract. This is because the LSI value at the end of the new contract will be significantly lower than it would be under the standard LSI formula, thereby lowering the amount of LSI purchase money needed by a prospective new concessioner. This lower entry cost should encourage the submission of competitive proposals from prospective concessioners.

Public Comments in Response to the February 1, 2010, ***Federal Register*** *Notice.* The two public comments that were received in response to the February 1, 2010, **Federal Register** notice overlapped each other to a large extent. The comments are summarized and responded to as follows:

1. *Comment:* The proposed LSI alternative formula constitutes a "taking." The comment specifically bases this position on the fact that the alternative does not provide for a CPI increase in LSI value.

Response: The proposed (or final) LSI alternative would not constitute a taking of property because of its lack of a CPI adjustment (or otherwise). The new contract will provide for compensation (LSI) for capital improvements to be determined by mutual agreement (or binding arbitration if agreement cannot be reached). NPS also notes that the amortization of value in real property improvements provided by the final LSI alternative is a customary provision of private sector commercial leases (which generally do not call for CPI adjustments). In addition, a number of NPS concession contracts involving possessory interest provided for straight-line amortization of possessory interest value without providing a CPI adjustment to the base value. Straight-line depreciation of compensable interests in real property improvements is not a new concept in NPS concession contracts.

2. *Comment:* NPS has not provided evidence that use of the proposed LSI alternative is necessary to provide a fair return to the Government and to foster competition for the new contract as required by the 1998 Act.

Response: NPS determined that use of the proposed LSI alternative was necessary to provide a fair return to the Government and to foster competition for the new contract as discussed in the February 1, 2010, and May 26, 2010, **Federal Register** notices. See the discussion above of the final LSI alternative for further information regarding these determinations.

3. *Comment:* Elimination of LSI for new and replaced fixtures under the proposed LSI alternative will have a chilling effect on the concessioner's willingness to make investments in fixtures.

Response: This issue is resolved by the final LSI alternative. In any event, NPS notes that the new contract requires the concessioner to maintain concession facilities to the satisfaction of NPS. More importantly, NPS anticipates that the evaluation process for proposals for the new contract will result in the selection of a new concessioner with a proven track record of meeting its contractual obligations, including the obligation to maintain concession facilities properly.

4. *Comment:* Lower franchise fee revenue to NPS resulting from the proposed LSI alternative will make less money available for improvement of visitor infrastructure.

Response: Use of the final LSI alternative results in a lower franchise fee for the proposed contract as discussed above. However, it also provides for a lower LSI value payment at the end of the contract. NPS considers that the lower ending LSI value payment provides financial and other benefits to the Government, including enhancement of its overall ability to make improvements to visitor infrastructure. In particular, the reduced LSI liability under the final LSI alternative provides greater flexibility to NPS in developing the terms of subsequent concession contracts, as the initial capital investment required of the new concessioner will be significantly lower. This lower required capital investment will make more concessioner funds available to undertake needed concessioner improvements and/or to provide higher franchise fees to NPS which would be available to make needed visitor improvements.

5. *Comment:* The proposed LSI alternative fails to address the legal authority to continue LSI depreciation once LSI value falls below $10 million.

Response: The 1998 Act authorizes use of an alternative LSI value formula with respect to proposed concession contracts that are estimated to have a leasehold surrender interest of more than $10 million. The proposed new contract has a leasehold surrender interest of more than $11 million. The 1998 Act does not provide that an alternative LSI formula must be discontinued if its application results in an LSI value of less than $10 million during the term of the contract.

6. *Comment:* Use of an alternative LSI formula is unfair to the incumbent concessioner because of circumstances relating to its 2005 negotiation of possessory interest value, and, in particular, the length of time between the date of the possessory interest value agreement and the issuance of the prospectus for the new contract.

Response: NPS has fully considered this comment. However, although NPS appreciates why the circumstances of this matter, including the timeline of the prospectus development process, are of concern to the commenter, NPS considers that the actions of NPS regarding the negotiation and agreement of possessory interest value, the development of the new prospectus, and the use of an alternative LSI formula, were all in the public interest and consistent with applicable law and policy.

7. *Comment:* The imposition of an alternative LSI formula to a specific class of concessions [contracts with LSI

value in excess of $10 million] will chill efforts to determine possessory interest and LSI values by mutual agreement of NPS and incumbent concessioners without costly, time consuming and otherwise undesirable arbitration.

Response: Incumbent NPS concessioners are under no obligation to agree to a determination of the value of possessory interest during the term of their contracts. Many, however, have chosen to do so in furtherance of their own business interests. NPS does not consider that the possible use of an LSI alterative in a subsequent contract will deter most, if any, incumbent concessioners from negotiating possessory interest during the existing contract term. However, if a particular concessioner chooses not to negotiate possessory interest value prior to contract expiration, applicable terms of the existing contract would require the negotiation of possessory interest value between the new concessioner and the prior concessioner after award of the new contract. Arbitration between the new concessioner and the prior concessioner is a last resort that rarely occurs. Such an arbitration has occurred only once in the 12 years since the passage of the 1998 Act.

8. *Comment:* The issuance of the prospectus by NPS prior to undertaking an informed scrutiny of the relevant circumstances based upon public comment is inconsistent with the 1998 Act.

Response: The February 1, 2010, **Federal Register** notice stated that, in the interest of time, NPS may issue a prospectus for the new contract that incorporates the proposed LSI alternative prior to receipt of comments on the notice. The notice also stated that, if consideration of public comments in response to the notice causes NPS to alter the proposed LSI alternative, it will amend the prospectus accordingly prior to the date for submission of proposals. This procedure is consistent with the requirements of the 1998 Act. After careful consideration of the public comments received in response to both the February 1, 2010, and May 26, 2010, **Federal Register** notices, NPS in fact has made appropriate modifications to the proposed LSI alternative and is amending the prospectus for the new contract accordingly.

9. *Comment:* The NPS must address LSI for all concession contracts in a consistent manner.

Response: The comment argues that if LSI value is speculative under the standard LSI formula, this must also be true with respect to contracts with less than $10 million of LSI value.

Accordingly, the comment states that NPS should address LSI for all contracts in the same manner, regardless of LSI value. However, the magnitude of the LSI value is relevant to the impact of the speculative nature of LSI value under the standard LSI formula, as evidenced by the special authority provided by Section 405(a)(4) of the 1998 Act. This authority is not applicable to contracts with LSI value of less than $10 million.

10. *Comment:* The proposed elimination of adjustments to the initial LSI value as a result of the installation of fixtures or replacement of fixtures during the contract term is unlawful.

Response: The comment states that the elimination of LSI value in new fixtures under the proposed LSI alternative is in violation of 36 CFR Part 51, which requires LSI value to be provided in fixtures installed during the term of a contract. This concern is made moot by the final LSI alternative. In any event, however, NPS considers that the LSI alternative as proposed was lawful in all respects under applicable provisions of the 1998 Act and 36 CFR Part 51.

11. *Comment:* The proposed LSI alternative does not clearly address whether it includes a CPI adjustment.

Response. The proposed LSI alternative did not provide for a CPI adjustment to LSI value; neither does the final LSI alternative.

12. *Comment:* Withdraw the notice and amend the prospectus to utilize the standard LSI formula. If it does not choose to do so, NPS should initiate a public discussion of the issue and initiate formal notice and comment process (through a rule-making) to seek public comment on the general application of an alternative LSI formula.

Response: NPS has fully considered the public comments reviewed in response to the February 1, 2010, and May 26, 2010, **Federal Register** notices and is proceeding to implement the final LSI alternative after scrutiny of the financial and other circumstances involved in the new contract, taking into account the public comments. Further public comment in response to a **Federal Register** notice is not considered to be necessary or in the public interest.

NPS notes that the final LSI alternative (as with the proposed LSI alternative) is applicable only to the new contract. NPS has made no decision to apply the final LSI alternative (or any other LSI alternative) to future concession contracts. If the same or other alternative LSI formulas are considered for utilization in subsequent concession contracts pursuant to the 1998 Act, opportunities for public comment will be provided as required. A rule-making is not required or in the public interest.

Public Comments in Response to the May 26, 2010, **Federal Register** *Notice.* Two public comments were received in response to the May 26, 2010, public notice. They are summarized and responded to as follows.

1. *Comment:* A commenter reiterated its objections to use of an alternative LSI formula as being unfair to the incumbent concessioner as expressed in response to the initial **Federal Register** notice. In addition, it suggested that, if NPS still intends to include an LSI alternative formula in the new concession contract, the reduction in LSI value under the formula should end at such point during the term of the new contract as the reduced LSI value falls below $10 million. The comment suggests that this approach would achieve the NPS objective of providing certainty as to the amount of LSI a prospective new concessioner would be entitled to under the terms of the new contract and would help eliminate the concern, as previously expressed by the commenter, that use of the proposed alternative LSI formula would discourage incumbent concessioners from agreeing to the determination of possessory interest and LSI values.

Response: NPS has given due consideration to this suggestion. However, NPS does not consider that its adoption would be in the public interest or consistent with the purposes of the 1998 Act for two primary reasons. These reasons outweigh any benefits that may result from the higher ending LSI value as suggested by the commenter.

First, a lower LSI ending value provides greater flexibility to NPS in developing the terms of subsequent concession contracts, as the initial capital investment required of the new concessioner will be significantly lower. This lower required capital investment will make more concessioner funds available to undertake needed concessioner operational and capital investment priorities, including necessary actions for protection of park area resources and the general environment. NPS notes in this regard that an objective of the 1998 Act is to provide accommodations, facilities and services that are consistent to the highest degree practicable with the preservation and conservation of the resources and values of the applicable park area.

Secondly, the final LSI alternative should result in increased competition for the future concession contract that will be awarded upon expiration of the

new contract. Prospective new concessioners for this contract will be required to pay the previous concessioner its ending LSI value. Accordingly, the significantly lower ending LSI value under the final LSI alternative, in contrast to the significantly higher ending LSI value as proposed by the commenter, lowers the entry cost to prospective new concessioners and thereby encourages the submission of competitive proposals in future solicitations.

2. *Comment:* A concerned citizen commented to the effect that the new contract should not be trusted and that Government contracts should be shut down because they always prove detrimental to the public.

Response: NPS considers the new contract to be in the public interest and in furtherance of the NPS mission to preserve and protect areas of the national park system while making them available for public enjoyment.

Public Availability of Further Information

Complete details and further explanation of the final LSI alternative are publically available at *http://www.nps.gov/commercialservices/*. NPS will amend the prospectus by public notice in FedBizOpp.gov in order to implement the final LSI alternative. This **Federal Register** notice regarding the LSI alternative, although not required, was issued in order to provide the public a complete understanding of the NPS alternative LSI authority (exercised for the first time in this transaction).

Daniel N. Wenk,

Deputy Director, Operations.

[FR Doc. 2010–22127 Filed 9–2–10; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDI01000–10–L12200000.AL0000]

Notice of Temporary Closure for Lands West of North Menan Butte, Idaho

AGENCY: Bureau of Land Management; Idaho Falls District, Upper Snake Field Office, Idaho.

ACTION: Temporary closure.

SUMMARY: Notice is hereby given that a temporary closure will apply to approximately 1,800 acres of public lands administered by the Bureau of Land Management (BLM) Upper Snake Field Office, Idaho. This same area has been closed to target shooting and full-size vehicles for the past 3 years to prevent illegal dumping and littering, including hazardous materials. This closure will be in effect for 24 months, to allow completion of a resource management plan (RMP), which will provide permanent management direction for the area. During the temporary closure, the 1,800 acres will continue to be open to human entry by foot and by horse. Off-road vehicles are allowed entry but will be required to stay on developed roads and trails. Any person who fails to comply with a closure or restriction order issued under this authority may be subject to the penalties described in 43 CFR 8360.0–7.

DATES: This temporary closure will be effective on the date this notice is published in the **Federal Register** and will remain in effect for 24 months from the date of publication or until rescinded or modified by the authorized officer or designated Federal officer.

FOR FURTHER INFORMATION CONTACT: The Upper Snake Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401 or call (208) 524–7500. By mail: Field Manager, Upper Snake Field Office, Bureau of Land Management, 1405 Hollipark Drive, Idaho Falls, Idaho 83401.

SUPPLEMENTARY INFORMATION: Annually, the BLM buries or removes between 20 and 50 dumped dead animals and approximately 10 tons of solid waste from public lands near North Menan Butte, a National Natural Landmark and an Area of Critical Environmental Concern. The waste originates when the public brings propane tanks, hot water heaters, computers, televisions, washers, dryers, car batteries, paint cans, and other waste objects and leaves them on the public lands. Target shooters shoot at this waste, leaving shell casings littering the landscape. This area is now a health and safety hazard due to the dumping, shooting, and the potential for disease transmission from uncovered dead animal carcasses. This waste has also included hazardous materials in recent years. During the temporary closure, the 1,800 acres will continue to be open to human entry by foot and by horse. Off-road vehicles are allowed entry but will be required to stay on developed roads and trails.

The following public lands are included in the closure:

Boise Meridian, Idaho

T. 6 N., R. 38 E.,
Section 27 (all) in Madison County,
Sections 28 (parts) in Jefferson County, and
T. 5 N., R. 38 E.,
Sections 4 (all) and 5 (parts) in Jefferson County.
Sections 28 (parts) in Jefferson County, and
T. 5 N., R. 38 E.,
Sections 4 (all) and 5 (parts) in Jefferson County.

Signs will be placed on the highway and at the site explaining the road and target shooting closures. Fences and road barriers will be maintained that allow for continued access by off-highway vehicles, motorcycles, equestrian use, and foot traffic in the southern portion. The closure order and related map will also be posted at the Upper Snake River Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401, and can also be viewed online at: *http://www.blm.gov/id/st/en/fo/upper_snake.html.* This closure is established and administered by the BLM under the authority of 43 CFR 8360, and complies with 43 CFR 8364.1 (Closures and Restrictions).

Exemptions: Persons who are exempt from this restriction include any Federal, State or local officer or employee acting within the scope of their duties; members of any organized rescue or fire-fighting force in the performance of an official duty; and any person holding written authorization from the BLM.

Penalties: Under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7, any person who fails to comply with this closure may be tried before a United States Magistrate and fined up to $1,000 or imprisoned for no more than 12 months. Violators may also be subject to the enhanced fines provided for in 18 U.S.C. 3571.

Wendy Reynolds,

Field Manager, Upper Snake Field Office, Bureau of Land Management.

[FR Doc. 2010–22079 Filed 9–2–10; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140—NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: ATF Adjunct Instructor Data Form.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information

collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until November 2, 2010. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gus Jakowitsch, Learning Management Branch, 99 New York Ave., NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New.

(2) *Title of the Form/Collection:* ATF Adjunct Instructor Data Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 6140.3. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or households. Other: None. The form will be used to collect the necessary information regarding the prospective instructor's experience and qualifications, and whether he or she meets the minimum requirements in order to teach ATF courses. The information is necessary in order for ATF training programs to verify and defend the qualifications of instructor personnel.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 20 respondents will complete a 30-minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 10 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, 2 Constitution Square, Room 2E–502, 145 N Street NE., Washington, DC 20530.

Dated: August 3, 2010.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2010–22086 Filed 9–2–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *August 16, 2010 through August 20, 2010.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or

directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,352	Republic Special Metals, Inc., Patriot Morgan, Inc.	Canton, OH	January 20, 2009.
73,501	National Emblem, Inc.	Carson, CA	February 12, 2009.
73,632	Simclar Interconnect Technologies, Inc., Leased Workers from Express Employment Professionals.	Ozark, MO	March 1, 2009.
74,042	Filtran LLC, Leased Workers from Skills Employment Personnel	Lugoff, SC	April 27, 2009.
74,201	Mt. Taylor Millwork, Inc	Milan, NM	May 24, 2009.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,561	Musashi Auto Parts Michigan, Inc., Musashi Seimitsu Industry Company, Ltd.; Leased Workers Spherion.	Battle Creek, MI	February 23, 2009.
73,620	Ticona Polymers, Celanese Corporation; Polymer Production Unit; Leased Workers from Mundy.	Grover, NC	February 22, 2009.
73,676	Apria Healthcare, Customer Service Department	Birmingham and Mobile, AL	March 8, 2009.
73,676A	Apria Healthcare, Customer Service Department	Little Rock and Lowell, AR	March 8, 2009.
73,676B	Apria Healthcare, Customer Service Department	Bullhead City and Other Cities, AZ.	March 8, 2009.
73,676C	Apria Healthcare, Customer Service Department	Lancaster and Other Cities, CA	March 8, 2009.
73,676D	Apria Healthcare, Customer Service Department	Durango, CO	March 8, 2009.
73,676E	Apria Healthcare, Customer Service Department	Cromwell, CT	March 8, 2009.
73,676F	Apria Healthcare, Customer Service Department	Fort Myers and Other Cities, FL	March 8, 2009.
73,676G	Apria Healthcare, Customer Service Department	Athens and Other Cities, GA	March 8, 2009.
73,676H	Apria Healthcare, Customer Service Department	Collinsville, Il	March 8, 2009.
73,676I	Apria Healthcare, Customer Service Department	Colby and Other Cities, KS	March 8, 2009.
73,676J	Apria Healthcare, Customer Service Department	Baton Rouge and Other Cities, LA.	March 8, 2009.
73,676K	Apria Healthcare, Customer Service Department	Cameron and Other Cities, MO	March 8, 2009.
73,676L	Apria Healthcare, Customer Service Department	Biloxi, MS	March 8, 2009.
73,676M	Apria Healthcare, Customer Service Department	Arden and Other Cities, NC	March 8, 2009.
73,676N	Apria Healthcare, Customer Service Department	Albuquerque, NM	March 8, 2009.

TA–W No.	Subject firm	Location	Impact date
73,676O	Apria Healthcare, Customer Service Department	Henderson and Sparks, NV	March 8, 2009.
73,676P	Apria Healthcare, Customer Service Department	Tulsa, OK	March 8, 2009.
73,676Q	Apria Healthcare, Customer Service Department	Duncan and Other Cities, SC	March 8, 2009.
73,676R	Apria Healthcare, Customer Service Department	Chattanooga and Other Cities, TN.	March 8, 2009.
73,676S	Apria Healthcare, Customer Service Department	Amarillo and Other Cities, TX	March 8, 2009.
73,676T	Apria Healthcare, Customer Service Department	Layton and Salt Lake City, UT	March 8, 2009.
73,676U	Apria Healthcare, Customer Service Department	Spokane, WA	March 8, 2009.
73,826	Kincaid, Inc.	Athens, TN	March 31, 2009.
73,847	PricewaterhouseCoopers, LLP, Internal Firm Services Client Account Administrators Group.	Florham Park, NJ	March 22, 2009.
73,907	Sherrill Manufacturing, Inc.	Sherrill, NY	April 12, 2009.
73,951	Ethicon, Johnson & Johnson; Leased Workers Kelly Temporary Services.	San Angelo, TX	April 13, 2009.
74,077	Robb and Stucky LTD., LLLP, Leased Workers Spartan Staffing	Lincolnton, NC	May 11, 2009.
74,180	Panasonic Home Appliances Company of America, Panasonic Corporation of North America; Leased Workers Nesco Resource, etc.	Danville, KY	April 24, 2009.
74,300	Als Holdings, Inc., Formerly known as Apex Label and Systems, Inc., Tapp Technologies, Inc.	Clackamas, OR	June 24, 2009.
74,369	Lanxess Sybron Chemicals, Inc., Lanxess Corporation; Leased Workers from Belcan Corporation.	Birmingham, NJ	March 19, 2010.
74,372	Metalsa Structural Products, Inc., Formerly Dana Holding Corporation, Product Engineering Group.	Pottstown, PA	June 14, 2009.
74,373	Metlife Group, Inc., Technology & Operations Division; Customer Sales & Service Unit; etc.	West Warwick, RI	July 12, 2009.
74,390	Haldex Brake Corporation, Commercial Vehicle Systems	Iola, KS	July 15, 2009.
74,422	World Color (USA), LLC, Dyersburg Division; Staffmark, Diversco, Metro.	Dyersburg, TN	July 16, 2009.
74,435	Philips Professional Luminaries, Philips Lighting; Leased Workers from Adecco.	Union, NJ	July 21, 2009.
74,463	Kimble Chase Life Science and Research Products, LLC, Leased Workers from Manpower.	Vineland, NJ	July 14, 2009.
74,470	Standard Microsystems Corporation, Also Known as SMSC; Production Test Division.	Hauppauge, NY	August 2, 2012.
74,486	Precision Dormer, LLC, Crystal Lake Supply Unit, Sandvik, Leased Workers from Staff Mark.	Crystal Lake, IL	August 3, 2009.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,160	American General—AIG, Life Brokerage; American International Group.	Wauwatosa, WI	May 27, 2009.
74,258	RWD Technologies, LLC, RWD Technologies, Inc.; National Practices; etc.	Troy, MI	May 26, 2009.
74,335	Jatal, Inc., Accel Plastics; Leased Workers from Smart Talent	Auburn, WA	June 30, 2009.

The following certifications have been issued. The requirements of Section 222(c) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,096	USF Holland, Inc., Detroit Service Center; YRC Worldwide	Romulus, MI	November 18, 2008.
73,802	JD Irving Woodland, LLC	Fort Kent, ME	March 15, 2009.
73,945	Carlen Transport, Inc.	Hampden, ME	April 7, 2009.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
72,729	International Paper, Pineville Mill, Industrial Packaging Group	Pineville, LA.	
73,030	Apex Systems, Inc., Working on-site at Verizon Business Network Services, Inc.	Colorado Springs, CO.	
73,108	TEKsystems, Inc., Allegis Group, Inc.; Doing Business as Aerotek	Pittsburgh, PA.	
73,228	Superior Technical Resources, Inc., Classmates.com	Seattle, WA.	
73,281	Shorewood Packaging, International Paper Company, Leased Workers Ameristaff Staffing.	Danville, VA.	
73,383	Conner Steel Products, Inc.	San Angelo, TX.	
73,848	MDM Supply Company	Missoula, MT.	
74,132	DuPont Performance EElastomers, Hypalon Unit	Nederland, TX.	
74,310	Eli Lilly and Company, Business System Operations	Indianapolis, IN.	
74,327	Anthem Blue Cross Blue Shield, Claim Management Services, Inc. Operations, A Division of Wellpoint, Inc.	Green Bay, WI.	
74,347	NCR Corporation, USPS Help Desk of Customer Care Center, Leased Workers of Volt Consulting.	West Columbia, SC.	
74,395	FTCA, Inc.	Somerset, PA.	

The investigation revealed that the criteria under paragraphs (b)(2) and (b)(3) (public agency acquisition of services from a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
74,331	Madison County Employment and Training, Administration Building.	Wood River, IL.	
74,331A	Madison County Employment and Training, Field Office	Granite City, IL.	
74,331B	Madison County Employment and Training, Field Office	Alton, IL.	
74,331C	Madison County Employment and Training, Field Office	Edwardsville, IL.	
74,331D	Madison County Employment and Training, Field Office	Glen Carbon, IL.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
73,979	Hagemeyer North America, Chambersburg Distribution Center	Chambersburg, PA.	
74,067	Kartheiser Trucking, Inc.	Columbia Falls, MT.	
74,485	Akzo Nobel Nonstick Coatings	Des Plaines, IL.	

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

TA–W No.	Subject firm	Location	Impact date
73,145	M & L Manufacturing, Inc. and The Jewelry Stream	Los Angeles, CA.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
73,770A	Chrysler Group, LLC, St. Louis North Plant	Fenton, MO.	
73,807	Keane, Inc., Working On-Site at Teachers Insurance Annuity Association (TIAA–CREF).	Boston, MA.	
73,937	Apria Healthcare, Customer Service Division	Duluth, GA.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
74,522	HealthPlan Services	Tampa, FL.	

The following determinations terminating investigations were issued because the Department issued a negative determination on petitions related to the relevant investigation period applicable to the same worker group. The duplicative petitions did not present new information or a change in circumstances that would result in a reversal of the Department's previous negative determination, and therefore, further investigation would duplicate efforts and serve no purpose.

TA–W No.	Subject firm	Location	Impact date
73,770	Chrysler Group, LLC, St. Louis South Plant	Fenton, MO.	

I hereby certify that the aforementioned determinations were issued during the period of August 16, 2010 through August 20, 2010. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, N., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: August 27, 2010.

Michael W. Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–22104 Filed 9–2–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than September 13, 2010.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than September 13, 2010.

Copies of these petitions may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail, to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or to *foiarequest@dol.gov.*

Signed at Washington, DC, this 28th of August 2010.

Michael Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 8/16/10 and 8/20/10]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74523	RR Donnelley (Company)	Glasgow, KY	08/16/10	08/11/10
74524	TD Ameritrade Holding Corporation (Workers)	Fort Worth, TX	08/16/10	08/05/10
74525	Emerson Transportation Division (Workers)	Bridgeton, MO	08/16/10	08/10/10
74526	Georgia-Pacific Wood Products, LLC (Workers)	Mount Hope, WV	08/16/10	08/13/10
74527	Mahle Engine Components (Workers)	Caldwell, OH	08/17/10	08/10/10
74528	United Auto Workers (UAW) Local 2166 (State/One-Stop)	Shreveport, LA	08/17/10	08/12/10
74529	Fisher-Price, Inc. (Company)	East Aurora, NY	08/17/10	08/06/10
74530	Hewlett Packard (Company)	Marlborough, MA	08/17/10	08/04/10
74531	Anthem Insurance Companies, Inc. (Company)	Mason, OH	08/17/10	08/13/10
74532	Whaling Distributors, Inc. (Company)	Fall River, MA	08/18/10	08/17/10
74533	Belding Hausman (Workers)	Lincolnton, NC	08/18/10	08/13/10
74534	DuPont Teijin Films (Workers)	Florence, SC	08/18/10	08/17/10
74535	TriZetto Group, Inc. (Workers)	Greenwood Village, CO	08/18/10	08/17/10
74536	Xerox Corporation (Workers)	Lewisville, TX	08/18/10	07/30/10
74537	Polyair Corporation (State/One-Stop)	Youngstown, OH	08/19/10	08/13/10

APPENDIX—Continued

[TAA petitions instituted between 8/16/10 and 8/20/10]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74538	Chris Stone, Incorporated (Workers)	Vernon, CA	08/19/10	08/12/10

[FR Doc. 2010–22103 Filed 9–2–10; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[(10–102)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JF0000, Washington, DC 20546, (202) 358–1351, *Lori.Parker@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marshall Star is a Center newsletter available in print and PDF formats. Marshall employees and retirees may place classified ads to appear in the Marshall Star.

II. Method of Collection

Phone.

III. Data

Title: Marshall Star Classified Ads.

OMB Number: 2700–XXXX.

Type of Review: New Collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 10 minutes via phone.

Estimated Total Annual Burden Hours: 2 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA Clearance Officer.

[FR Doc. 2010–21999 Filed 9–2–10; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[(10–101)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546, (202) 358–1351, *Lori.Parker@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

DIME & WING are components of a NASA competition program which allows teams to design and build a science experiment which will then be operated in a NASA microgravity drop tower facility. Teams of 4 students are selected to come to GRC and drop their experiment and will be required to complete a registration form to get on base, photo release form and medical form.

II. Method of Collection

Electronic.

III. Data

Title: Dropping In a Microgravity Environment (DIME) and What If No Gravity? (WING) Drop Tower Competitions.

OMB Number: 2700–XXXX.

Type of Review: New Collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 6 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has

practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA Clearance Officer.

[FR Doc. 2010–21998 Filed 9–2–10; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (10–104)]

NASA Advisory Council; Education and Public Outreach Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Education and Public Outreach Committee of the NASA Advisory Council.

DATES: Monday, September 20, 2010, 9 a.m. to 4 p.m., Local Time.

ADDRESSES: NASA Johnson Space Center, Gilruth Center—Longhorn Room, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: This meeting will also take place telephonically and via WebEx. Any interested person should contact Ms. Erika G. Vick, Executive Secretary for the Education and Public Outreach Committee, National Aeronautics and Space Administration, Washington, DC, at *Erika.vick-1@nasa.gov*, no later than 4 p.m. EDT September 17, 2010, to get further information about participating via teleconference and/or WebEx.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following topics:

- Regulations that Constrain Public Engagement.
- NASA and Social Media.
- Education Design Team.
- Action Item Status.
- Johnson Space Center Presentations.

The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: August 31, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–22200 Filed 9–2–10; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company; Notice of Availability of the Draft Supplemental Environmental Impact Statement for Combined Licenses (COLS) for Vogtle Electric Generating Plant Units 3 and 4 and Associated Public Meeting

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published NUREG–1947, "Draft Supplemental Environmental Impact Statement for Combined Licenses (COLs) for Vogtle Electric Generating Plant Units 3 and 4." The site is located on the southwest side of the Savannah River in eastern Burke County, Georgia. The application for the COLs was submitted by letter dated March 31, 2008 pursuant to 10 CFR part 52. A notice of receipt and availability of the application, which included the environmental report (ER), was published in the **Federal Register** on May 5, 2008 (73 FR 24616). A notice of acceptance for docketing of the application for the COL was published in the **Federal Register** on June 11, 2008 (73 FR 33118).

The purpose of this notice is to inform the public that NUREG–1947, "Draft Supplemental Environmental Impact Statement for Combined Licenses (COLs) for Vogtle Electric Generating Plant Units 3 and 4," is available for public inspection in the NRC Public Documents Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 or from the Publicly Available Records (PARS) component of NRC Agency-wide Documents Access and Management System (ADAMS) and will also be placed directly on the NRC Web site at *http://www.nrc.gov.* ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* (the Public Electronic Reading Room). The ADAMS accession number for the DSEIS is ML102370278. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* In addition, the Burke County Library, 130 Highway 24 South, Waynesboro, GA, has agreed to make the DSEIS available for public inspection.

The NRC staff will hold a public meeting to present an overview of the DSEIS and to accept public comments on the document. The public meeting will be held at the Augusta Technical College, Waynesboro Campus Auditorium, 216 Hwy 24 South, Waynesboro, GA on Thursday, October 7, 2010. The meeting will convene at 7 p.m. and will continue until 10 p.m., as necessary. The meeting will be transcribed and will include: (1) A presentation of the contents of the DSEIS and (2) an opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour before the start of the meeting. No formal comments on the DSEIS will be accepted by the NRC staff during the informal discussions. To be considered, comments must be provided either during the transcribed portion of the meeting or in writing. Comments will not be edited to remove any identifying or contact information, therefore, the NRC cautions against including any information that should not be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit comments or remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Persons may register to attend or present oral comments at the meeting by contacting Ms. Mallecia Sutton by telephone at 1–800–368–5642, extension 0673 or via Internet to the NRC at *VOGTLE.COLAEIS@nrc.gov,* no later than September 30, 2010. Members of the public may also register to speak at the meeting within 15 minutes of the start of the meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register.

Members of the public who have not registered may also have an opportunity to speak, if time permits. Ms. Sutton will need to be contacted no later than September 30, 2010, if special equipment or accommodations are needed to attend or present information at the public meeting, so that the NRC staff can determine whether the request can be accommodated.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2008–0252 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0288. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

In addition, members of the public may send written comments on the DSEIS for the VEGP COL to Cindy Bladey, Chief, Rules, Announcements and Directives Branch (RAD), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RAD at (301) 492–3446.

To be considered, written comments should be postmarked by November 24, 2010. Electronic comments may be sent to the NRC at *VOGTLE.COLAEIS@nrc.gov.* Electronic submissions should be sent no later than November 24, 2010. Comments will be available electronically and accessible through the NRC's PERR link at *http://www.nrc.gov/reading-rm/adams.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Mallecia Sutton, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Ms. Sutton may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 27th day of August, 2010.

For the Nuclear Regulatory Commission.

Nilesh C. Chokshi,

Deputy Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. 2010–22061 Filed 9–2–10; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: Ricketts Acquisition LLC and the Chicago National League Ball Club, LLC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation ("PBGC") has received a request from Ricketts Acquisition LLC for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Major League Baseball Players Benefit Plan. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if the transaction meets certain conditions. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five-plan-year period beginning after the sale. PBGC is authorized to grant individual and class exemptions from this requirement. Before granting an exemption, the statute and PBGC regulations require PBGC to give interested persons an opportunity to comment on the exemption request. The purpose of this notice is to advise interested persons of the exemption request and solicit their views on it.

DATES: Comments must be submitted on or before October 18, 2010.

ADDRESSES: Comments may be submitted by any off the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *E-mail: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *http://www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Eric Field, Attorney, Office of the Chief Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4020. (For TTY/TTD users, call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4020.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA" or the "Act"), provides that a bona fide arm's length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C) are that:

(A) The purchaser has an obligation to contribute to the plan with respect to covered operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for the relief afforded under section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the PBGC to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the statute be administered in a manner that assures protection of the plan with the least intrusion into normal business transactions practicable. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The *Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations* 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of a variance or exemption from the bond/escrow requirement does not constitute a finding by PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under PBGC's regulation on variances for sales of assets (29 CFR part 4204), a request for a variance or exemption from the bond/escrow requirement under any of the tests established in the regulation (§§ 4204.12 and 4204.13) is to be made to the plan in question. PBGC will consider variance or exemption requests only when the request is not based on satisfaction of one of the four regulatory tests under regulation §§ 4204.12 and 4204.13, or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. 552(b)(4) (Freedom of Information Act). *See* 29 CFR 4204.21.

Under § 4204.22 of the regulation, PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it:

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 4204.22(b) of the regulation requires PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

PBGC has received a request, dated November 25, 2009, from Ricketts Acquisition LLC (the "Purchaser") for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of the Chicago National League Ball Club, LLC (the "Seller"). In the request, the Purchaser represents, among other things, that:

1. The Seller was obligated to contribute to the Major League Baseball Players Benefit Plan (the "Plan") for certain employees of the purchased operations.

2. The Purchaser has agreed to assume the obligation to contribute to the Plan for substantially the same number of contribution base units as the Seller.

3. The Seller has agreed to be secondarily liable for any withdrawal liability it would have had with respect to the purchased operations (if not for section 4204) should the Purchaser withdraw from the Plan and fail to pay its withdrawal liability.

4. The estimated amount of the withdrawal liability of the Seller with respect to the operations subject to the sale is $34,030,359.

5. The amount of the bond/escrow established under section 4204(a)(1)(B) is $4,068,868, which is to be posted if PBGC has not acted on the request by the end of the plan year of the request.

6. The Major League Baseball Clubs (the "Clubs") have established the Major League Central Fund (the "Central Fund") pursuant to the Major League Baseball Constitution. Under this Constitution, the Office of the Commissioner of Baseball pays contributions to the Plan from the Central Fund on behalf of each participating employer in satisfaction of the employer's pension liability under the Plan's funding agreement. The monies in the Central Fund are derived directly from (i) gate receipts from All-Star games; (ii) radio and television revenue from World Series, League Championship Series, Division Series, All-Star Games, and (iii) certain other radio and television revenue, including revenues from foreign broadcasts, regular, spring training, and exhibition games ("Revenues").

7. In support of the exemption request, the Purchaser asserts that "[t]he Plan is funded directly from Revenues which are paid from the Central Fund directly to the Plan without passing through the hands of any of the Clubs. Therefore, the Plan enjoys a substantial degree of security with respect to contributions on behalf of the Clubs. A change in ownership of a particular Club does not affect the obligation of the Central Fund to fund the Plan out of the Revenues. As such, approval of this exemption request would not increase the risk of financial loss to the Plan."

8. A complete copy of the request was sent to the Plan and to the Major League Baseball Players Association by certified mail, return receipt requested.

Issued at Washington, DC, August 27, 2010.

Joshua Gotbaum,

Director.

[FR Doc. 2010–22012 Filed 9–2–10; 8:45 am]

BILLING CODE 7708–01–P

POSTAL REGULATORY COMMISSION

[Docket No. A2010–5; Order No. 526]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Rentiesville Post Office, Rentiesville, Oklahoma 74459 has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioner, and others to take appropriate action.

DATES: Deadline for filing administrative record: September 9, 2010. For other dates, *see* Procedural Schedule.

ADDRESSES: Submit filings electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot file electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

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

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to 39 U.S.C. 404(d), the Commission has received an appeal of the closing of the Rentiesville Post Office, Rentiesville, Oklahoma 74459. The appeal, postmarked August 23, 2010, was received by the Commission on August 25, 2010. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and designates the case as Docket No. A2010–5 to consider the petitioner's appeal. If the petitioner would like to further explain her position with supplemental information or facts, she may either file a Participant Statement on PRC Form 61 or file a brief with the Commission by no later than September 29, 2010.

Categories of issues apparently raised. The categories of issues that appear to be raised include: Effect on the community. *See* 39 U.S.C. 404(d)(2)(A)(i).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues

than the one set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the administrative record with the Commission is September 9, 2010. 39 CFR 3001.113.

Availability; website posting. The Commission has posted the appeal and supporting material on its website at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the website, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's website is available online or by contacting the Commission's webmaster via telephone at 202–789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's website, *http://www.prc.gov,* unless a waiver is obtained. 39 CFR 3001.9(a) and 10(a). Instructions for obtaining an account to file documents online may be found on the Commission's website, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Intervention. Those, other than the petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention are due on or before September 21, 2010. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's website, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date this appeal was filed. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120–day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the administrative record in this appeal, or otherwise file a responsive pleading to the appeal, by September 9, 2010.

2. The procedural schedule listed below is hereby adopted.

3. Pursuant to 39 U.S.C. 505, Steven M. Hoffer is designated officer of the Commission (Public Representative) to represent the interests of the general public.

4. The Secretary shall arrange for publication of this notice and order and procedural schedule in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

August 25, 2010	Filing of Appeal.
September 9, 2010	Deadline for Postal Service to file administrative record in this appeal or responsive pleading.
September 21, 2010	Deadline for petitions to intervene (*see* 39 CFR 3001.111(b)).
September 29, 2010	Deadline for petitioner's Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
October 19, 2010	Deadline for answering brief in support of Postal Service (*see* 39 CFR 3001.115(c)).
November 3, 2010	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
November 10, 2010	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
December 21, 2010	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2010–22040 Filed 9–2–10; 8:45 am]

BILLING CODE 7710–FW–S

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:

Rule 0–2; SEC File No. 270–572; OMB Control No. 3235–0636.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), 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.

Several sections of the Investment Company Act of 1940 ("Act" or "Investment Company Act") [1] give the Commission the authority to issue orders granting exemptions from the Act's provisions. The section that grants broadest authority is section 6(c), which provides the Commission with authority to conditionally or unconditionally exempt persons, securities or transactions from any provision of the Investment Company Act, or the rules or regulations, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.[2]

Rule 0–2 under the Investment Company Act,[3] entitled "General Requirements of Papers and Applications," prescribes general instructions for filing an application seeking exemptive relief with the Commission for which a form is not specifically prescribed. Rule 0–2 requires that each application filed with the commission have (a) a statement of authorization to file and sign the application on behalf of the applicant, (b) a verification of application and statements of fact, (c) a brief statement of the grounds for application, and (d) the name and address of each applicant and of any person to whom questions should be directed. The Commission uses the information required by rule 0–

[1] 15 U.S.C. 80a–1 *et seq.*

[2] 15 U.S.C. 80a–6(c).

[3] 17 CFR 270.0–2.

2 to decide whether the applicant should be deemed to be entitled to the action requested by the application.

Applicants for orders can include registered investment companies, affiliated persons of registered investment companies, and issuers seeking to avoid investment company status, among other entities. Commission staff estimates that it receives approximately 125 applications per year under the Act. Although each application typically is submitted on behalf of multiple entities, the entities in the vast majority of cases are related companies and are treated as a single respondent for purposes of this analysis.

The time to prepare an application depends on the complexity and/or novelty of the issues covered by the application. We estimate that the Commission receives 20 of the most time-consuming applications annually, 80 applications of medium difficulty, and 25 of the least difficult applications. Based on conversations with applicants, we estimate that in-house counsel would spend from ten to fifty hours helping to draft and review an application. We estimate a total annual hour burden to all respondents of 3,650 hours [(50 hours × 20 applications) + (30 hours x 80 applications) + (10 hours x 25 applications)].

Much of the work of preparing an application is performed by outside counsel. The cost outside counsel charges applicants depends on the complexity of the issues covered by the application and the time required for preparation. Based on conversations with attorneys who serve as outside counsel, the cost ranges from approximately $10,000 for preparing a well-precedented, routine application to approximately $150,000 to prepare a complex and/or novel application. This distribution gives a total estimated annual cost burden to applicants of filing all applications of $9,650,000 [(20 x $150,000) + (80 x $80,000) + (25 x $10,000)].

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

This collection of information is necessary to obtain a benefit and 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 OMB 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 e-mail to: Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 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 30, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22025 Filed 9–2–10; 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:

Rule 0–2, Form ADV–NR; SEC File No. 270–214; OMB Control No. 3235–0240.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is "Rule 0–2" (17 CFR 275.0–2) and "Form ADV–NR" (17 CFR 279.4) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1). Rule 0–2 and Form ADV–NR facilitate service of process to non-resident investment advisers and their non-resident general partners or non-resident managing agents. The Form requires these persons to designate the Commission as agent for service of process. The purpose of this collection of information is to enable the commencement of legal and or regulatory actions against investment advisers that are doing business in the United States, but are not residents.

The respondents to this information collection would be each non-resident general partner or non-resident managing agent of an SEC-registered adviser. The Commission has estimated that compliance with the requirement to complete Form ADV–NR imposes a total burden of approximately 1 hour for an adviser. Based on our experience with these filings, we estimate that we will receive 18 Form ADV–NR filings annually. Based on the 1.0 hour per respondent estimate, the Commission staff estimates a total annual burden of 18 hours for this collection of information.

Rule 0–2 and Form ADV–NR do not require recordkeeping or records retention. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV–NR is a filing with the Commission. This filing is not kept confidential and must be preserved until at least three years after termination of the enterprise. 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.

General comments regarding the above information should be directed 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 Remi Pavlik-Simon, 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 30, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22028 Filed 9–2–10; 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:

Rule 7d–1; SEC File No. 270–176; OMB Control No. 3235–0311.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), 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.

Section 7(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–7(d)) (the "Act" or "Investment Company Act") requires an investment company ("fund") organized outside the United States ("foreign fund") to obtain an order from the Commission allowing the fund to register under the Act before making a public offering of its securities through the United States mail or any means of interstate commerce. The Commission may issue an order only if it finds that it is both legally and practically feasible effectively to enforce the provisions of the Act against the foreign fund, and that the registration of the fund is consistent with the public interest and protection of investors.

Rule 7d–1 (17 CFR 270.7d–1) under the Act, which was adopted in 1954, specifies the conditions under which a Canadian management investment company ("Canadian fund") may request an order from the Commission permitting it to register under the Act. Although rule 7d–1 by its terms applies only to Canadian funds, other foreign funds generally have agreed to comply with the requirements of rule 7d–1 as a prerequisite to receiving an order permitting the foreign fund's registration under the Act.

The rule requires a Canadian fund proposing to register under the Act to file an application with the Commission that contains various undertakings and agreements of the fund. The requirement for the Canadian fund to file an application is a collection of information under the Paperwork Reduction Act. Certain of the undertakings and agreements, in turn, impose the following additional information collection requirements:

(1) The fund must file agreements between the fund and its directors, officers, and service providers requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations relating to the undertakings and agreements in the application;

(2) The fund and each of its directors, officers, and investment advisers that is not a U.S. resident, must file an irrevocable designation of the fund's custodian in the United States as agent for service of process;

(3) The fund's charter and bylaws must provide that (a) the fund will comply with certain provisions of the Act applicable to all funds, (b) the fund will maintain originals or copies of its books and records in the United States, and (c) the fund's contracts with its custodian, investment adviser, and principal underwriter, will contain certain terms, including a requirement that the adviser maintain originals or copies of pertinent records in the United States;

(4) The fund's contracts with service providers will require that the provider perform the contract in accordance with the Act, the Securities Act of 1933 (15 U.S.C. 77a), and the Securities Exchange Act of 1934 (15 U.S.C. 78a), as applicable; and

(5) The fund must file, and periodically revise, a list of persons affiliated with the fund or its adviser or underwriter.

As noted above, under section 7(d) of the Act the Commission may issue an order permitting a foreign fund's registration only if the Commission finds that "by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (Act)." The information collection requirements are necessary to assure that the substantive provisions of the Act may be enforced as a matter of contract right in the United States or Canada by the fund's shareholders or by the Commission.

Rule 7d–1 also contains certain information collection requirements that are associated with other provisions of the Act. These requirements are applicable to all registered funds and are outside the scope of this request.

The Commission believes that one foreign fund is registered under rule 7d–1 and currently active. Apart from requirements under the Act applicable to all registered funds, rule 7d–1 imposes ongoing burdens to maintain records in the United States, and to update, as necessary, certain fund agreements, designations of the fund's custodian as service agent, and the fund's list of affiliated persons. The Commission staff estimates that each year under the rule, the active registrant and its directors, officers, and service providers engage in the following collections of information and associated burden hours:

- For the fund and its investment adviser to maintain records in the United States: [1] 0 hours: 0 minutes of compliance clerk time.
- For the fund to update its list of affiliated persons: 2 hours: 2 hours of support staff time.
- For new officers, directors, and service providers to enter into and file agreements requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations: 0.5 hours: 7.5 minutes of director time; 2.5 minutes of officer time; 20 minutes of support staff time.
- For new officers, directors, and investment advisers who are not residents of the United States to file irrevocable designation of the fund's custodian as agent for process of service: 0.25 hours: 5 minutes of director time; 10 minutes of support staff time.

Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 2.75 hours.[2] We estimate that directors perform 0.21 hours of these burden hours at a total cost of $945,[3] officers perform 0.04 of these burden hours at a total cost of $16.72,[4] and support staff perform 2.5 of these burden hours at a total cost of $147.50.[5] Thus, the Commission estimates the aggregate annual cost of the burden hours associated with rule 7d–1 is $1109.[6]

If a fund were to file an application under rule 7d–1 to register under the Act, the Commission estimates that the rule would impose initial information collection burdens (for filing an application, preparing the specified charter, bylaw, and contract provisions, designations of agents for service of

[1] The rule requires an applicant and its investment adviser to maintain records in the United States (which, without the requirement, might be maintained in Canada or another foreign jurisdiction), which facilitates routine inspections and any special investigations of the fund by Commission staff. The registrant and its investment adviser, however, already maintain the registrant's records in the United States and in no other jurisdiction. Therefore, maintenance of the registrant's records in the United States does not impose an additional burden beyond that imposed by other provisions of the Act. Those provisions are applicable to all registered funds and the compliance burden of those provisions is outside the scope of this request.

[2] This estimate is based on the following calculation: (0 + 2 + 0.5 + 0.25) = 2.75 hours.

[3] The director estimates are based on the following calculations: (7.5 minutes + 5 minutes)/60 minutes per hour = 0.21 hours; and 0.21 hours × $4500/hour = $945. The per hour cost estimate is based on estimated hourly compensation for each board member of $500 and an average board size of 9 members.

[4] The officer estimates are based on the following calculations: 2.5 minutes/60 minutes per hour = 0.04 hours; 0.04 hours × $418/hour = $16.72. The per hour cost estimate is based on the figure for chief compliance officers found in SIFMA's *Management & Professional Earnings in the Securities Industry 2009*, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[5] The support staff estimates are based on the following calculations: 2 hours + 20 minutes + 10 minutes = 2.5 hours; and 2.5 hours × $59/hour = $147.50. The per hour cost estimate is based on the figure for compliance clerks found in SIFMA's *Management & Professional Earnings in the Securities Industry 2009*, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[6] This estimate is based on the following calculation: $1109.22 = $945 + $16.72 + 147.50.

process, and an initial list of affiliated persons, and establishing a means of keeping records in the United States) of approximately 90 hours for the fund and its associated persons. The Commission is not including these hours in its calculation of the annual burden because no fund has applied to register under the Act pursuant to rule 7d–1 in the last three years.

As noted above, after registration, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. The active registrant has not filed a substantive supplemental application in the past three years. Therefore, the Commission has not allocated any burden hours for these applications.

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

If a Canadian or other foreign fund in the future applied to register under the Act under rule 7d–1, the fund initially might have capital and start-up costs (not including hourly burdens) of an estimated $17,280 to comply with the rule's initial information collection requirements. These costs include legal and processing-related fees for preparing the required documentation (such as the application, charter, bylaw, and contract provisions), designations for service of process, and the list of affiliated persons. Other related costs would include fees for establishing arrangements with a custodian or other agent for maintaining records in the United States, copying and transportation costs for records, and the costs of purchasing or leasing computer equipment, software, or other record storage equipment for records maintained in electronic or photographic form.

The Commission expects that a foreign fund and its sponsors would incur these costs immediately, and that the annualized cost of the expenditures would be $17,280 in the first year. Some expenditures might involve capital improvements, such as computer equipment, having expected useful lives for which annualized figures beyond the first year would be meaningful. These annualized figures are not provided, however, because, in most cases, the expenses would be incurred immediately rather than on an annual basis. The Commission is not including these costs in its calculation of the annualized capital/start-up costs because no fund has applied under rule 7d–1 to register under the Act pursuant to rule 7d–1 in the last three years.

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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 e-mail to: Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 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 30, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22030 Filed 9–2–10; 8:45 am]

BILLING CODE 8011–01–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 N–14; SEC File No. 270–297; OMB Control No. 3235–0336.

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 requests for extension of the previously approved collection of information discussed below.

Form N–14 (17 CFR 239.23)—Registration Statement Under the Securities Act of 1933 for Securities Issued in Business Combination Transactions by Investment Companies and Business Development Companies. Form N–14 is used by investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("Investment Company Act") and business development companies as defined by Section 2(a)(48) of the Investment Company Act to register securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") to be issued in business combination transactions specified in rule 145(a) under the Securities Act (17 CFR 230.145(a)) and exchange offers. The securities are registered under the Securities Act to ensure that investors receive the material information necessary to evaluate securities issued in business combination transactions. The Commission staff reviews registration statements on Form N–14 for the adequacy and accuracy of the disclosure contained therein. Without Form N–14, the Commission would be unable to verify compliance with securities law requirements. The respondents to the collection of information are investment companies or business development companies issuing securities in business combination transactions. The estimated number of responses is 286 (including 266 registrants that file one new registration statement on Form N–14 each year and 20 registrants that file one amendment to Form N–14 each year) and the collection occurs only when a merger or other business combination is planned. The estimated total annual reporting burden of the collection of information is approximately 620 hours per response for a new registration statement, and approximately 350 hours per response for an amended Form N–14, for a total of 171,920 annual burden hours. Providing the information on Form N–14 is mandatory. Responses will not be kept confidential. Estimates of the burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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 Remi Pavlik-Simon, 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 30, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22031 Filed 9–2–10; 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:

Rule 302; SEC File No. 270–453; OMB Control No. 3235–0510.

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 Rule 302 (17 CFR 242.302) of Regulation ATS (17 CFR 242.300 *et seq.*) under the Securities and Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*).

Regulation ATS sets forth a regulatory regime for "alternative trading systems" ("ATSs"), which are entities that carry out exchange functions but which are not required to register as national securities exchanges under the Act. In lieu of exchange registration, an ATS can instead opt to register with the Commission as a broker-dealer and, as a condition to not having to register as an exchange, must instead comply with Regulation ATS. Rule 302 of Regulation ATS (17 CFR 242.302) describes the recordkeeping requirements for ATSs. Under Rule 302, ATSs are required to make a record of subscribers to the ATS, daily summaries of trading in the ATS, and time-sequenced records of order information in the ATS.

The information required to be collected under Rule 302 should increase the abilities of the Commission, state securities regulatory authorities, and the self-regulatory organizations ("SROs") to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. If the information is not collected or collected less frequently, the regulators would be limited in their ability to comply with their statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

Respondents consist of ATSs that choose to register as broker-dealers and comply with the requirements of Regulation ATS. There are currently 81 respondents. These respondents will spend approximately 10,530 hours per year (81 respondents at 130 burden hours/respondent) to comply with the recordkeeping requirements of Rule 302. At an average cost per burden hour of $59, the resultant total related cost of compliance for these respondents is $621,270.00 per year (10,530 burden hours multiplied by $59/hour).

Compliance with Rule 302 is mandatory. The information required by Rule 302 is available only for the examination of the Commission staff, state securities authorities, and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 522 ("FOIA"), and the Commission's rule (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

ATSs are required to preserve any records, for at least three years, made in the process of complying with the requirements set out in Rule 302.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated; August 30, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22027 Filed 9–2–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29405]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 27, 2010.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August 2010. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 21, 2010, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Templeton Capital Accumulation Plans I

[File No. 811–6197]

Templeton Capital Accumulation Pans II

[File No. 811–10165]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On May 20, 2005 and September 29, 2006, respectively, each applicant made a liquidating distribution to its planholders, based on net asset value. As a result of the liquidations, applicants' planholders became direct shareholders of Templeton Growth Fund, Inc., the sole underlying investment vehicle for each

applicant. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on August 12, 2010.

Applicants' Address: 100 Fountain Parkway, St. Petersburg, FL 33716–1205.

BlackRock Principal Protected Trust

[File No. 811–21162]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 28, 2010, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $2,000 incurred in connection with the liquidation were paid by BlackRock Advisors, LLC, applicant's investment adviser.

Filing Date: The application was filed on August 16, 2010.

Applicant's Address: 55 East 52nd St., New York, NY 10055.

SM&R Investments, Inc.

[File No. 811–6477]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 12, 2010, applicant transferred its assets to corresponding series of California Investment Trust, based on net asset value. Expenses of approximately $57,270 incurred in connection with the reorganization were paid by Securities Management and Research, Inc., applicant's investment adviser, and CCM Partners, the acquiring fund's investment adviser.

Filing Date: The application was filed on August 6, 2010.

Applicant's Address: 2450 South Shore Blvd., Suite 400, League City, TX 77573.

Hilliard-Lyons Government Fund, Inc.

[File No. 811–3070]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 23, 2010, applicant transferred its assets to Federated Government Cash Series, a series of Cash Trust Series, Inc., based on net asset value. Expenses of $255,370 incurred in connection with the reorganization were paid by J.J.B. Hilliard, W.L. Lyons, LLC, applicant's investment adviser.

Filing Date: The application was filed on August 6, 2010.

Applicant's Address: 500 West Jefferson St., Louisville, KY 40202.

Liberty Term Trust, Inc.—1999

[File No. 811–6253]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 17, 1999, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on August 3, 2010.

Applicant's Address: Federated Investors Funds, 4000 Ericsson Dr., Warrendale, PA 15086–7561.

Pioneer Series Trust IX

[File No. 811–6151]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 12, 2009, applicant transferred its assets to Pioneer Global Equity Fund, a series of Pioneer Series Trust V, based on net asset value. Expenses of approximately $15,400 incurred in connection with the reorganization were paid by applicant, the acquiring fund, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Date: The application was filed on July 23, 2010.

Applicant's Address: 60 State St., Boston, MA 02109.

Rockland Funds Trust

[File No. 811–7743]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 1, 2010, applicant transferred its assets to Jacob Small Cap Growth Fund, a series of Jacob Funds Inc., based on net asset value. Expenses of approximately $65,641 incurred in connection with the reorganization were paid by Jacob Asset Management of New York LLC, investment adviser to the acquiring fund.

Filing Date: The application was filed on July 13, 2010.

Applicant's Address: 1235 Westlakes Dr., Suite 280, Berwyn, PA 19312.

Excelsior Absolute Return Fund of Funds Master Fund, LLC

[File No. 811–21395]

Excelsior Absolute Return Fund of Funds, LLC

[File No. 811–21396]

Summary: Applicants, closed-end investment companies and a master fund and feeder fund, respectively, in a master/feeder structure, each seek an order declaring that it has ceased to be an investment company. On December 31, 2009, Excelsior Absolute Return Fund of Funds Master Fund, LLC (the "Master Fund") made a liquidating distribution to its shareholders, based on net asset value. Also on December 31, 2009, the Master Fund transferred assets of approximately $20,302,000 consisting of cash, receivables and interests in underlying hedge funds to a liquidating trust. Beneficial interests in the liquidating trust were distributed to the Master Fund, which distributed the interests to its feeder funds, including Excelsior Absolute Return Fund of Funds, LLC (the "Feeder Fund"), on a pro rata basis. The Feeder Fund then distributed the beneficial interest in the liquidating trust to its shareholders on a pro rata basis. On June 29, 2010, the Feeder Fund made a final liquidating distribution to its shareholders, based on net asset value. Each applicant incurred expenses of $50,000 in connection with its liquidation.

Filing Date: The applications were filed on June 30, 2010.

Applicants' Address: 225 High Ridge Rd., Stamford, CT 06905.

ShariahShares Exchange—Traded Fund Trust

[File No. 811–22346]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on July 30, 2010.

Applicant's Address: 12 Brillantez, Irvine, CA 92620.

Cohen & Steers Global Power and Utility Fund, Inc.

[File No. 811–21804]

Cohen & Steers Asia Pacific Realty Fund, Inc.

[File No. 811–21871]

Cohen & Steers Enhanced Closed-End Opportunity Fund, Inc.

[File No. 811–22030]

Cohen & Steers Enhanced Dividend Fund, Inc.

[File No. 811–22059]

Cohen & Steers Global Real Estate Income Opportunities Fund, Inc.

[File No. 811–22060]

Cohen & Steers Global Power and Infrastructure Fund, Inc.

[File No. 811–22157]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not propose to

make a public offering or engage in business of any kind.

Filing Dates: The applications were filed on July 1, 2010, and amended on August 4, 2010.

Applicants' Address: 280 Park Ave., 10th Floor, New York, NY 10017.

Cohen & Steers Global Realty Fund, Inc.

[File No. 811–22009]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 1, 2010, and amended on August 4, 2010.

Applicant's Address: 280 Park Ave., 10th Floor, New York, NY 10017.

General New York Municipal Bond Fund, Inc.

[File No. 811–4074]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 21, 2010, applicant transferred its assets to Dreyfus New York AMT–Free Municipal Bond Fund, based on net asset value. Expenses of $44,500 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on August 4, 2010.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

American National Investment Accounts, Inc.

[811–6155]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about April 30, 2010, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $1,611 incurred in connection with the liquidation were paid by Securities Management and Research, Inc., applicant's investment adviser.

Filing Date: The application was filed on July 20, 2010.

Applicant's Address: 2450 South Shore Blvd., Suite 400, League City, Texas 77573.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22001 Filed 9–2–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62768; File No. SR–NYSEArca–2010–78]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Relating to Listing and Trading of Jefferies Commodity Real Return ETF

August 26, 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 17, 2010, NYSE Arca, Inc. ("NYSE Arca" 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 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 Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of Jefferies Commodity Real Return ETF under NYSE Arca Equities Rule 8.200, Commentary .02. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[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

NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts ("TIRs") either by listing or pursuant to unlisted trading privileges ("UTP").[3] The Exchange proposes to list and trade the shares (the "Shares") of the Jefferies Commodity Real Return ETF (the "Fund") under NYSE Arca Equities Rule 8.200.[4]

The Exchange notes that the Commission has previously approved the listing and trading of other issues of Trust Issued Receipts on the American Stock Exchange LLC,[5] trading on NYSE Arca pursuant to unlisted trading privileges ("UTP"),[6] and listing on NYSE Arca.[7] In addition, the Commission has approved other exchange-traded fund-like products linked to the performance of underlying commodities.[8]

Overview of the Fund [9]

According to the Registration Statement, the Fund will pursue its

[3] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to TIRs that invest in "Financial Instruments". The term "Financial Instruments", as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

[4] *See* the Pre-Effective Amendment No. 1 to Registration Statement on Form S–1, filed with the Commission on June 29, 2010 (No. 333–164811) ("Registration Statement"). The descriptions of the Fund and the Shares contained herein are based on the Registration Statement.

[5] *See, e.g.,* Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR–Amex–2008–39) (order approving amendments to Amex Rule 1202, Commentary .07 and listing on Amex of 14 funds of the Commodities and Currency Trust).

[6] *See, e.g.,* Securities Exchange Act Release No. 58163 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR–NYSEArca–2008–73) (order approving UTP trading on NYSE Arca of 14 funds of the Commodities and Currency Trust).

[7] *See, e.g.,* Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91) (order approving lising on NYSE Arca of 14 funds of the Commodities and Currency Trust).

[8] *See, e.g.,* Securities Exchange Act Release Nos. 56932 (December 7, 2007), 72 FR 71178 (December 14, 2007) (SR–NYSEArca–2007–112) (order granting accelerated approval to list iShares S&P GSCI Commodity-Indexed Trust); 59781 (April 17, 2009), 74 FR 18771 (April 24, 2009) (SR–NYSEArca–2009–28) (order granting accelerated approval for NYSE Arca listing the ETFS Silver Trust); 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40) (order granting accelerated approval for NYSE Arca listing the ETFS Gold Trust).

[9] Terms relating to the Fund, the Shares and the Index referred to, but not defined, herein are defined in the Registration Statement.

investment objective by investing substantially all of its assets in a portfolio of exchange traded futures on the commodities comprising its corresponding index, as described below, or other derivatives. The Fund establishes long positions in futures contracts on the commodities comprising the Thomson Reuters/Jefferies CRB 3 Month Forward Index ("Index"), with a view to tracking the changes, whether positive or negative, in the level of the Index over time. The Fund also may invest in one or more forward agreements, swaps, or other over-the-counter derivatives that reference a particular Index Commodity ("Futures-Linked Investment"), as described below. The Fund is also intended to reflect the excess, if any, of its interest income from its investment in 3-month U.S. Treasury bills, U.S. government issued Treasury Inflation Protection Securities ("TIPS")[10] and other high credit quality short-term fixed income securities, over its expenses.

Jefferies Commodity Investment Services, LLC, a Delaware limited liability company, is the Fund's promoter, and will serve as Managing Owner of the Fund (the "Managing Owner"). The Managing Owner will serve as the commodity pool operator and commodity trading advisor of the Fund. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission ("CFTC") and is a member of the National Futures Association. The Bank of New York Mellon will be the administrator, custodian and transfer agent of the Fund. ALPS Distributors, Inc. will serve as the Fund's marketing agent.

The Index tracks the changes in the closing levels of the futures positions that would in three months comprise the Thomson Reuters/Jefferies CRB Index ("TR/J CRB Index"). The TR/J CRB Index is designed to track the changes in the closing levels of nearby rolling futures positions.[11]

The Fund will hold a portfolio of futures contracts on the Index Commodities (as described below), as well as cash, 3-month U.S. Treasury bills, TIPS and other high credit quality short-term fixed income securities, for deposit with the Fund's Clearing Broker (Credit Suisse Securities (USA) LLC), as margin. The Fund's portfolio will be traded with a view to tracking the Index over time, whether the Index is rising, falling or flat over any particular period. The Fund is not "managed" by traditional methods, which typically involve effecting changes in the composition of the Fund's portfolio on the basis of judgments relating to economic, financial and market considerations with a view to obtaining positive results under all market conditions. To maintain the correspondence between the composition and weightings of the Index Commodities comprising the Index, the Managing Owner adjusts the Fund's portfolio from time-to-time to conform to periodic changes in the identity and/or relative weighting of the Index Commodities. The Managing Owner will aggregate certain of the adjustments and makes changes to the Fund's portfolio at least monthly or more frequently in the case of significant changes to the Index.[12]

According to the Registration Statement, the Index is designed to provide timely and accurate representation of a long-only, broadly diversified investment in commodities through a transparent and disciplined calculation methodology. The Index is currently composed of futures contracts on the following 19 physical commodities (each, an "Index Commodity" and, collectively, "Index Commodities"): Aluminum, cocoa, coffee, copper, corn, cotton, crude oil, gold, heating oil, lean hogs, live cattle, natural gas, nickel, orange juice, silver, soybeans, sugar, RBOB gasoline, and wheat. The Index Commodities currently trade on United States futures exchanges, with the exception of aluminum and nickel, which trade on the London Metal Exchange.

According to the Registration Statement, as the Fund approaches or reaches position limits with respect to certain futures contracts comprising the Index and the Managing Owner determines in its commercially reasonable judgment that it has become impracticable or inefficient for any reason for the Fund to gain full or partial exposure to any Index Commodity by investing in a specific futures contract that is a part of the Index, the Fund may invest in a futures contract referencing the particular Index Commodity other than the specific contract that is a part of the Index, or invest in one or more Futures-Linked Investments referencing the particular Index Commodity, including forward agreements, swaps, or other OTC derivatives, or in the alternative, invest in other futures contracts or Futures-Linked Investments not based on the particular Index Commodity if, in the commercially reasonable judgment of the Managing Owner, such replacement instruments tend to exhibit trading prices that correlate with a futures contract that is a part of the Index.

According to the Registration Statement, the Index uses a four-tiered approach to allocate among the Index Commodities included in the Index. Group I includes only petroleum products; Group II includes seven Index Commodities which are highly liquid; Group III is comprised of four liquid Index Commodities; Group IV includes Index Commodities that may provide diversification.

All Index Commodities are equally weighted within Groups II, III and IV, as provided below.[13]

[10] TIPS are marketable securities issued by the U.S. Treasury whose principal is adjusted by changes in the Consumer Price Index ("CPI"). With inflation (a rise in the CPI), the principal increases. With deflation (a drop in the CPI), the principal decreases. (Source: *http://www.treasurydirect.gov.*)

[11] A rolling futures position is a position where, on a periodic basis, futures contracts on physical commodities specifying delivery in a particular month are sold and futures contracts specifying delivery in a later month are purchased. An investor with a rolling futures position is able to avoid taking delivery of the underlying physical commodity while maintaining exposure to those commodities. To maximize liquidity and transparency, this "rolling" process for the Index Commodities for the Index occurs over the first four Business Days of each month according to a fixed schedule as described in the Registration Statement.

[12] According to the Registration Statement, Jefferies Group, Inc.'s policy is to implement procedures to prevent the improper sharing of information between different departments of the company. Specifically, procedures as described in the Registration Statement create an information barrier between the personnel within Jefferies Group, Inc. who sit on the Thomson Reuters/Jefferies CRB Index Oversight Committee and other Jefferies Group, Inc.'s personnel of the Managing Owner who are involved in making portfolio management and trading decisions for the Fund, and also are intended to prevent the improper sharing of certain Index-related information to others who could act on the information to the detriment of the Fund.

[13] The referenced exchanges with respect to the commodities for the Fund, as applicable, are as follows: NYMEX (New York Mercantile Exchange); COMEX (Commodity Exchange Inc.); LME (The London Metal Exchange Limited); CBOT (Chicago Board of Trade); CME (Chicago Mercantile Exchange); ICE–US, Inc. (ICE Futures U.S.).

THOMSON REUTERS/JEFFERIES CRB INDEX—THOMSON REUTERS/JEFFERIES CRB 3 MONTH FORWARD INDEX

Group	Index commodity	Index weight (%)	Contract months	Exchange	Trading hours (E.T.)
I	WTI Crude Oil	23	Jan–Dec	NYMEX	10:00 am—2:30 pm.
	Heating Oil	5	Jan–Dec	NYMEX	10:05 am—2:30 pm.
	RBOB Gasoline	5	Jan–Dec	NYMEX	10:05 am—2:30 pm.
Total		33			
II	Natural Gas	6	Jan–Dec	NYMEX	10:00 am—2:30 pm.
	Corn	6	Mar, May, Jul, Sep, Dec	CBOT	10:30 am—2:15 pm.
	Soybeans	6	Jan, Mar, May, Jul, Nov	CBOT	10:30 am—2:15 pm.
	Live Cattle	6	Feb, Apr, Jun, Aug, Oct, Dec	CME	10:05 am—2:00 pm.
	Gold	6	Feb, Apr, Jun, Aug, Dec	COMEX	8:20 am—1:30 pm.
	Aluminum	6	Mar, Jun, Sep, Dec	LME	6:55 am—12:00 pm.
	Copper	6	Mar, May, Jul, Sep, Dec	COMEX	8:10 am—1:00 pm.
Total		42			
III	Sugar	5	Mar, May, Jul, Oct	ICE–US	3:30 am—2:00 pm.
	Cotton	5	Mar, May, Jul, Dec	ICE–US	9:00 pm—2:30 pm.
	Cocoa	5	Mar, May, Jul, Sep, Dec	ICE–US	4:00 am—2:00 pm.
	Coffee	5	Mar, May, Jul, Sep, Dec	ICE–US	3:30 am—2:00 pm.
Total		20			
IV	Nickel	1	Mar, Jun, Sep, Dec	LME	7:10 am—11:55 am.
	Wheat	1	Mar, May, Jul, Sep, Dec	CBOT	10:30 am—2:15 pm.
	Lean Hogs	1	Feb, Apr, Jun, Jul, Aug, Oct, Dec	CME	9:10 am—1:00 pm.
	Orange Juice	1	Jan, Mar, May, Jul, Sep, Nov	ICE–US	8:00 am—2:00 pm.
	Silver	1	Mar, May, Jul, Sep, Dec	COMEX	8:25 am—1:25 pm.
Total		5			

The Index is calculated daily by Thomson Reuters (Markets) LLC, a Thomson Reuters company ("Reuters" or the "Index Calculation Agent"). The Index began publishing in April 2007. The changes in the closing levels of the Index are reported by a number of major market data vendors. Reuters is not affiliated with a broker dealer.

Group I of the Index includes only petroleum products—WTI crude oil, heating oil and RBOB gasoline. According to the Registration Statement, these Index Commodities are among the most economically significant and frequently traded and historically have contributed meaningfully to the return and correlative characteristics of commodity benchmark indices. In order to reflect the critical role of petroleum in the global economy and maintain the diversified nature of the Index, the Index has assigned an Index Weight of 33% to the Group I Index Commodities, represented by the crude oil, RBOB gasoline and heating oil contracts traded on the NYMEX.

Group II is comprised of futures contracts on the Index Commodities that are traded in markets that are highly liquid. These seven markets represent a diverse cross section across several commodity sectors. Each Index Commodity is assigned an Index Weight of 6% of the Index. In turn, Group II constitutes 42% of the Index.

Group III is comprised of futures contracts on Index Commodities that are traded in markets that are liquid. These four Index Commodities include a second cross section of diverse and liquid markets in order to diversify the Index. Each Index Commodity in Group III is assigned an Index Weight of 5% of the Index. In turn, Group III constitutes 20% of the Index.

Group IV is comprised of futures contracts on Index Commodities that may provide additional diversification to the Index by increasing the exposure of the Index to the Softs, Grains, Industrial Metals, Meats and Precious Metals markets. Each Index Commodity in Group IV is assigned an Index Weight of 1% of the Index. In turn, Group IV constitutes 5% of the Index.

Rebalancing Methodology

According to the Registration Statement, the Index employs arithmetic averaging with monthly rebalancing, while maintaining a uniform exposure to the various Index Commodities over time.

The Index Commodities are rebalanced monthly, generally following the close of business on the sixth Business Day of each month, to return to the specified dollar weights, referenced as "Index Weight" in the table above. This rebalancing is achieved by selling Index Commodities that have gained in value relative to other Index Commodities and buying Index Commodities that have lost in value relative to other Index Commodities. This monthly rebalancing helps to maintain both the stability and consistency of the Index and the consistent exposure to the Index Weights of the underlying Index Commodities over time.

The Fund will meet the initial and continued listing requirements applicable to Trust Issued Receipts in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. With respect to application of Rule 10A–3 [14] under the Act, the Trust relies on the exception contained in Rule 10A–3(c)(7).[15] A minimum of 100,000 Shares of the Fund will be outstanding as of the start of trading on the Exchange.

A more detailed description of the Shares, the Fund, the Index and the Index Commodities, as well as investment risks, is set forth in the Registration Statement.

[14] 17 CFR 240.10A–3.

[15] 17 CFR 240.10A–3(c)(7).

Availability of Information Regarding the Shares

The Web site for the Fund (*http://www.jamfunds.com/jcis*) and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) The current net asset value ("NAV") per share daily and the prior business day's NAV and the reported closing price; (b) the midpoint of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the "Bid-Ask Price"); (c) calculation of the premium or discount of such price against such NAV; (d) the bid-ask price of Shares determined using the highest bid and lowest offer as of the time of calculation of the NAV; (e) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four previous calendar quarters; (f) the prospectus; and (g) other applicable quantitative information. The Fund will also disseminate Fund holdings on a daily basis on the Fund's Web site.

The Index Calculation Agent calculates the closing level of each Index on both an excess return basis and a total return basis. An excess return index reflects the changes in market value over time, whether positive or negative, of the Index Commodities. A total return is the sum of the changes in market value over time, whether positive or negative, of the Index Commodities incorporating the return of 3-month U.S. Treasury bills. The Fund is designed to track the Index as calculated on an excess return, not a total return, basis.

In order to calculate the indicative Index levels, the Index Calculation Agent determines the real time price of each Index Commodity every 15 seconds. The Index Calculation Agent then applies a set of rules to these values to create the indicative level of the Index. These rules are consistent with the rules which the Index Calculation Agent applies at the end of each trading day to calculate the closing levels of the Index.

The Intra-day Indicative Value ("IIV") per Share of the Fund is calculated by applying the percentage price change of the Fund's holdings in futures contracts to the last published NAV of the Fund. The Index Calculation Agent will publish this value every 15 seconds through one or more major market data vendors. The Index Calculation Agent will publish the closing level of the Index daily. The Managing Owner will publish the NAV of the Fund and the NAV per Share of the Fund daily. Additionally, the Index Calculation Agent will publish the intra-day level of the Index, and the Managing Owner will publish the indicative value per Share of the Fund (quoted in U.S. dollars) once every fifteen seconds throughout each trading day. All of the foregoing information will be published as follows:

The intra-day level of the Index and the IIV per Share of the Fund (each quoted in U.S. dollars) will be published once every fifteen seconds throughout each trading day through one or more major market data vendors and on the Managing Owner's Web site.

The most recent end-of-day Index closing level will be published as of the close of the NYSE Arca each trading day on the consolidated tape, Reuters and/or Bloomberg and on the Managing Owner's Web site.

The most recent end-of-day NAV of the Fund will be published as of the close of business by major market data vendors and on the Managing Owner's Web site. In addition, the most recent end-of-day NAV of the Fund will be published the following morning on the consolidated tape.

The NAV for the Fund will be disseminated to all market participants at the same time. The Exchange also will disseminate on a daily basis via CTA information with respect to recent NAV and shares outstanding. The Exchange will also make available on its Web site daily trading volume of each of the Shares, closing prices of such Shares, and the corresponding NAV. The closing prices and settlement prices of futures on the Index Commodities are also readily available from the Web sites of the applicable futures exchanges, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. The relevant futures exchanges also provide delayed futures information on current and past trading sessions and market news free of charge on their respective Web sites. The specific contract specifications for the futures contracts are also available on such Web sites, as well as other financial informational sources. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

Dissemination of Intra-Day Indicative Value

In addition, in order to provide updated information relating to the Fund for use by investors and market professionals, an updated IIV will be calculated. The IIV is calculated by using the prior day's closing NAV per share of the Fund as a base and updating that value throughout the trading day to reflect changes in the value of the Index Commodities. The IIV disseminated during NYSE Arca trading hours should not be viewed as an actual real time update of the NAV, which is calculated only once a day.

The IIV will be disseminated on a per Share basis by one or more major market data vendors every 15 seconds during NYSE Arca Core Trading Session of 9:30 a.m. to 4 p.m. Eastern Time ("E.T."). The value of a Share may be influenced by non-concurrent trading hours between NYSE Arca and the applicable futures exchange when the Shares are traded on NYSE Arca after normal trading hours of such futures exchanges.

The Exchange believes that dissemination of the IIV provides additional information regarding the Fund that is not otherwise available to the public and is useful to professionals and investors in connection with the related Shares trading on the Exchange or the creation or redemption of such Shares.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200(e), which sets forth certain restrictions on ETP Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. See "Surveillance" below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the underlying futures contracts, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule [16] or by the halt or suspension of

[16] *See* NYSE Arca Equities Rule 7.12.

trading of the underlying futures contracts.

The Exchange represents that the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV, the Index or the value of the underlying futures contracts occurs. If the interruption to the dissemination of the IIV, the Index or the value of the underlying futures contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including Trust Issued Receipts, to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Shares, the physical commodities included in, or options, futures or options on futures on, Shares through ETP Holders, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the exchanges that are members of the Intermarket Surveillance Group ("ISG").[17] CME Group, Inc., which includes CME, CBOT, NYMEX and COMEX, is a member of ISG. In addition, the Exchange has entered into a comprehensive surveillance sharing agreement with LME and ICE Futures U.S. that applies with respect to trading in futures on the applicable Index Commodities. A list of ISG members is available at *http://www.isgportal.org.*

In addition, with respect to Fund assets traded on exchanges, not more than 10% of the weight of such assets in the aggregate shall consist of components whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (3) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the IIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the Index Commodities traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares of the Fund and that the NAV for the Shares is calculated after 4 p.m. E.T. each trading day. The Bulletin will disclose that information about the Shares of the Funds is publicly available on the Fund's Web site.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Section 6(b)(5),[19] 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 mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will permit the listing of an additional issuance of Trust Issued Receipts on the Exchange that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in Rule 8.200 are intended to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

[17] The Exchange notes that not all futures contracts or other financial instruments held by the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

(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, 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–2010–78 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2010–78. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEArca–2010–78 and should be submitted on or before September 24, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22111 Filed 9–2–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62783; File No. SR–Phlx–2010–104]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Conversion of NASDAQ OMX PHLX, Inc. to a Limited Liability Company

August 27, 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 16, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") 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 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 Substance of the Proposed Rule Change

The Exchange proposes to convert NASDAQ OMX PHLX, Inc. from a Delaware corporation to a Delaware limited liability company (a "Delaware LLC"). This proposal is solely a technical rule change. There are no new regulatory issues implicated in this proposal. Further, the Exchange is not proposing any material changes, but rather only amendments to make technical conforming changes to the formation documents to correspond with the LLC conversion. All substantive provisions that govern an exchange are consistent with the Act and remain intact. The Exchange's proposed formation documents, including the Certificate of Formation, Limited Liability Agreement and By-Laws, are consistent in form and scope with the most recent governing documents that were approved by the Commission.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* 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.

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 convert NASDAQ OMX PHLX, Inc. from a Delaware corporation to a Delaware LLC. The NASDAQ OMX Group, Inc. acquired NASDAQ OMX PHLX, Inc. (formerly the Philadelphia Stock Exchange, Inc.) on July 24, 2008.[3] At this time, The NASDAQ OMX Group, Inc. proposes to convert NASDAQ OMX PHLX, Inc., a Delaware corporation to NASDAQ OMX PHLX LLC, a Delaware limited liability company (the "LLC"), to more closely conform its organizational structure to that of other NASDAQ OMX entities. Pursuant to the Delaware Limited Liability Company Act, as amended from time to time (the "LLC Act"), the LLC will continue the existence of NASDAQ OMX PHLX, Inc. and all rights, privileges, powers, property and liabilities shall vest in the LLC at the time of conversion. As such, this proposed rule change will merely effect a change in entity form of the Exchange and have no substantive effect on the current rights and obligations of the current members and owners of the Exchange.[4]

---

[20] 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 Nos. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR–Phlx–2008–31); and 58183 (July 17, 2008), 73 FR 42850 (July 23, 2008) (SR–NASDAQ–2008–035).

[4] Additionally, the proposed limited liability company agreement of the Exchange (the "LLC Agreement") post-conversion is consistent in form and scope with the Second Amended and Restated Limited Liability Company Agreement of The Nasdaq Stock Market LLC, dated as of July 9, 2009 (the "NSM LLC Agreement"). *See* Securities Exchange Act Release No. 34–53128 (Jan. 13, 2006), 71 FR 3550 (January 23, 2006), (approval of

Following the conversion, the Exchange proposes to be governed by a Certificate of Formation, the LLC Agreement and the By-Laws of the LLC (the "LLC By-Laws") in accordance with the LLC Act. These proposed formation documents reflect all of the current rights and obligations of the members and owners of the Exchange in the appropriate form of governing documents of a Delaware LLC. The specific changes to the current documents are discussed in the following sections.

Certificate of Formation

In order to convert from a Delaware corporation to a Delaware LLC, a Certificate of Conversion and a Certificate of Formation of the LLC will be filed with the Secretary of State of the State of Delaware. The Certificate of Conversion is necessary to effect the conversion of the Exchange from a Delaware corporation to a Delaware LLC pursuant to the LLC Act. Further, the LLC Act requires that a Certificate of Formation of the LLC be filed to accomplish the formation of the LLC. Unlike a Certificate of Incorporation which contains actual governing provisions, a Certificate of Formation only sets forth three pieces of information, the name of the company, the address of the registered office and the name and address of the registered agent. As such, only the information in the FIRST and SECOND provisions of the Certificate of Incorporation are reflected in the Certificate of Formation with certain minor changes. First, a Delaware LLC must contain the words "LLC" in its name. In light of this requirement, the name set forth in the FIRST provision of the Certificate of Formation of the LLC reflects the proposed name "NASDAQ OMX PHLX LLC" rather than "NASDAQ OMX PHLX, Inc." Additionally, the LLC is referred to as a "limited liability company" in this provision rather than a "corporation."

The governing provisions of a Delaware LLC need to be set forth in the limited liability company agreement of such Delaware LLC. As such, the remaining provisions of the Certificate of Incorporation are proposed to be reflected in the LLC Agreement and the LLC By-Laws, as together, these documents are considered the limited liability company agreement of the LLC for purposes of the LLC Act (the "Agreement").[5]

Limited Liability Company Agreement

Following the conversion of the Exchange, it is proposed that the Exchange adopt the Agreement. As noted above, the Agreement will consist of the LLC Agreement and the LLC By-Laws. The LLC By-Laws proposed to be adopted are in substantially the same form as the By-Laws currently in effect, with certain modifications as further explained below.

The LLC Agreement proposed by the Exchange is similar to that of the NSM LLC Agreement. Schedule A of the LLC describes the proposed ownership of the limited liability company interests (designated therein as "shares" of the LLC), which ownership structure is identical to that currently in place. The NASDAQ OMX Group, Inc. ("NASDAQ OMX Group") is the sole common shareholder of NASDAQ OMX PHLX, Inc. and is proposed to become a member of the Exchange (within the meaning of the LLC Act) and the sole owner of all of the Common Stock (as defined in the LLC Agreement) of the LLC. There is also the PHLX Member Voting Trust (the "Trust") which holds the one (1) Series A Preferred Stock of NASDAQ OMX PHLX, Inc. The Trust is proposed to become a member of the Exchange (within the meaning of the LLC Act)[6] and the owner of the one (1) Series A Preferred Stock (as defined in the LLC Agreement) in the LLC.

The Exchange is incorporating the current By-Laws of NASDAQ OMX PHLX, Inc. into the LLC Agreement as Exhibit A to that LLC Agreement. The Exchange proposes to make minimal conforming amendments to the current By-Laws to comport with the conversion to an LLC. Specifically, the Exchange proposes to create an introductory paragraph to the By-Laws to explain that the By-Laws together with the LLC Agreement constitute the LLC Agreement within the meaning of the LLC Act.[7]

Discussion of the Proposed LLC Agreement

As mentioned above, the Exchange proposes to adopt an LLC Agreement as part of its conversion to a Delaware LLC. Such LLC Agreement will contain many provisions set forth in the Certificate of Incorporation of the Exchange, with such modifications as are necessary to reflect the new entity form. NASDAQ OMX Group and the Trust, the current common and preferred stockholders of the Exchange, respectively, would each be admitted to, and become a member of, the LLC. As a member of the LLC, each such person will hold limited liability company interests in the LLC, denoted in the LLC Agreement as Common Stock and Preferred Stock.[8]

The proposed LLC Agreement begins with an introductory paragraph identifying the parties to the LLC Agreement and certain recitals. Such recitals set forth the conversion process generally, including (i) the applicable Delaware law[9] by which the conversion is effected, (ii) the conversion of all of the shares of the capital stock of the NASDAQ OMX PHLX, Inc. into limited liability company interests of the LLC (designated therein as Common Stock and Preferred Stock), (iv) the admission of NASDAQ OMX Group and the PHLX Trust to the LLC as members thereof, and (v) the ownership structure post-conversion. As provided for in the LLC Agreement, NASDAQ OMX Group and the Trust will hold Common Stock and Preferred Stock, respectively, in the LLC, with the same rights and obligations as such entities had under the Certificate of Incorporation and the By-Laws immediately prior to the conversion. With respect to the other sections of the LLC Agreement, the changes from or additions to the existing organizational documents of the Exchange are discussed below by Section.

Section 1 of the LLC Agreement, titled "Name; Conversion", specifies the name of the entity in addition to other information with respect to the conversion process. As discussed above, the name of the Exchange, "NASDAQ OMX PHLX, Inc.", set forth in provision FIRST of the Certificate of Incorporation, is proposed to be changed to "NASDAQ OMX PHLX LLC" as required by the LLC Act. Section 1 of the LLC Agreement also notes that the organization documents, namely the Certificate of Formation and LLC Agreement with attachments, supersede the former organizational documents, in this case the Certificate of Incorporation

Nasdaq's application for registration as a national securities exchange).

[5] The LLC Act requires a limited liability company agreement in order for an entity to be duly formed (*see* Section 18–201(d) of the LLC Act). Additionally, a limited liability company agreement is defined in Section 18–101(7) as an agreement that governs the affairs of the LLC. Both the LLC By-Laws and the LLC Agreement together constitute the limited liability company agreement for purposes of the LLC Act.

[6] Neither NASDAQ OMX Group nor the Trust is a member organization of the Exchange within the meaning of the By-Laws.

[7] *See* 6 Del. C. § 18–101(7).

[8] Interests in a Delaware LLC are referred to as limited liability company interests under the LLC Act rather than stock or shares. However, these interests can be referred to by whatever term the limited liability company agreement provides. The LLC Agreement defines such interests as Common Stock and Preferred Stock.

[9] NASDAQ OMX PHLX would be converted pursuant to Section 18–214 of the Delaware LLC Act (6 Del. C. § 18–101, *et seq.*).

and the By-Laws of NASDAQ OMX PHLX, Inc. Further Section 1 of the LLC Agreement reiterates the conversion of all of the shares of the capital stock of the Exchange and the admission of the members of the LLC as generally set forth in the recitals of the LLC Agreement. The LLC Act provision which provides for the continued existence of the Exchange as a Delaware LLC is noted in the last sentence of this Section as well. This sentence, while not identical to, is similar in nature to the perpetual existence of the Exchange set forth in provision FIFTH of the Certificate of Incorporation in that it recognizes the continuation of the Exchange without a set term. This language was used in lieu of the language of provision FIFTH of the Certificate of Incorporation as it derives from the LLC Act and is more appropriate to the proposed new entity form of the Exchange. Identical language can be found in Section 6 of the NSM LLC Agreement.

Section 2 of the LLC Agreement, titled Principal Business Office, lists the principal business office of the Exchange and provides notice of such information to those reviewing the LLC Agreement. Such provision is standard in limited liability company agreements of Delaware LLCs [10] and such addition will have no material substantive effect on the current operations or governance of the Exchange.

Section 3 of the LLC Agreement, titled Registered Office; Registered Agent, lists the Exchange's registered office and registered agent, which was formerly reflected in provision SECOND of the Certificate of Incorporation. The entity acting as the registered agent and the place of the registered office will remain unchanged post-conversion.

Section 4 of the LLC Agreement, titled Members, sets out the name and mailing address of each Stockholder, providing notice of such information to those reviewing the LLC Agreement. Such provision is standard in limited liability company agreements of Delaware LLCs [11] and such addition will have no material substantive effect on the current operations or governance of the Exchange.

Section 5 of the LLC Agreement, titled Certificates, refers to the filing of Certificate of Formation and the Certificate of Conversion of the LLC. Such provision acknowledges and confirms that such filings, which were necessary for the conversion to be effected, were authorized by the LLC. This Section additionally sets forth those person(s) who have the authority to file any other certificates with the Delaware Secretary of State on behalf of the LLC pursuant to the LLC Act. This provision has no analog under the existing organizational documents of the Exchange but given its administrative nature, such change will have no material substantive effect on the current operations of the Exchange.

Section 6 of the LLC Agreement, titled Purpose, discusses the Exchange's business purpose. This provision is virtually identical to provision THIRD of the Certificate of Incorporation with the following modifications: (i) This Section references a limited liability company instead of a corporation to reflect the appropriate entity form of the Exchange post-conversion, and (ii) this section also includes standard language to clarify that not only can the LLC engage in the general purpose set forth therein but it can also engage in those activities necessary or incidental to such purpose. This clarifying language is common in limited liability company agreements of Delaware LLCs [12] and such addition will have no material substantive effect on the current operations or governance of the Exchange.

Section 7 of the LLC Agreement, titled Powers, discusses the general powers of the Exchange, the Board of Governors and the Officers and largely defers to the applicable provisions set forth in the LLC By-Laws. The LLC By-Laws at Article IV, Section 4–4 delineate in more detail the powers of the Board of Governors which are referred to in Section 7 of the LLC Agreement. Similarly, the LLC By-Laws delineate in more detail the powers of the Officers of the Exchange in Article V. Article IV, Section 4–4 and Article V of the LLC By-Laws are identical to the corresponding provisions in the current By-Laws of the Exchange.

Section 8 of the LLC Agreement, titled Management, sets forth the general management structure of the Exchange. It is proposed that the management structure of the LLC be the same as currently in effect under the governing documents of NASDAQ OMX PHLX, Inc. As proposed, the management would remain vested with the Board of Governors, the general powers, composition and removal of which are set forth in Section 8 of the LLC Agreement. Such provision is substantially identical to that of provision SIXTH of the Certificate of Incorporation.[13] Certain additions have been made to the language retained from provision SIXTH of the Certificate of Incorporation, including (i) a provision referencing the applicable provisions of the By-Laws and their incorporation into the LLC Agreement in order to acknowledge the inter-relationship of these two documents in the governance of the LLC, (iii) a sentence denoting each Governor as a "manager" of the LLC for purposes of the LLC Act,[14] and (iv) a provision acknowledging that the Governors are agents of the LLC in performing their duties as prescribed by the Agreement. Each such addition represents standard language typically contained in limited liability company agreements of Delaware LLCs [15] and such additions will have no material substantive effect on the current operations or governance of the Exchange.

Section 9 of the LLC Agreement, titled Officers, discusses generally the officers of the LLC and their appointment, role as agent and duties but defaults to the By-Laws for a more detailed description of such topics. The applicable provisions of the LLC By-Laws are in Article V and remain identical to the description provided in Article V of the By-Laws currently in effect.

Section 10 of the LLC Agreement, titled Limited Liability, corresponds, in part, with provision FIFTEENTH of the Certificate of Incorporation and Article IV, Section 4–18 of the current By-Laws in that it limits the personal liability of Governors for the debts and obligations of the Exchange. The Exchange also proposes to include, in Section 10 of the LLC Agreement, standard language, which is consistent with, and reflective of, the limitation on liability of members provided for in the LLC Act, to limit the personal liability of the Stockholders for the debts and obligations of the Exchange. Similar language is contained in the NSM LLC Agreement in Section 11 therein.

Sections 11 through 14 of the LLC Agreement are equity-related provisions which encompass the topics of capital contributions, additional capital

[10] For example, *see* Section 2 of the NSM LLC Agreement.

[11] For example, *see* Section 3 and 4 of the NSM LLC Agreement.

[12] For example, *see* Section 7 of the NSM LLC Agreement.

[13] The introductory paragraph of provision SIXTH of the Certificate of Incorporation is reflected in Section 8(a) and (b) of the LLC Agreement. Subsection (a) of provision SIXTH of the Certificate of Incorporation is reflected in Section 8(c) of the LLC Agreement. Subsection (b) of provision SIXTH of the Certificate of Incorporation is reflected in Section 8(f) of the LLC Agreement.

[14] As the term "Governor" is not a term used in the LLC Act, to ensure that provisions of the LLC Act that relate to "managers" of a Delaware LLC (i.e. those Persons who manage a Delaware LLC), the Governors have been denoted as such solely for this purpose.

[15] For example, *see* Section 9(a), (c) and (j) of the NSM LLC Agreement.

contributions, allocations of profits and losses and distributions. These provisions set forth the basic economic arrangement of the Stockholders and remain consistent with the economic arrangement under the current corporate documents. For example, NASDAQ OMX Group, as the sole common shareholder, is generally entitled to all dividends declared by the Exchange. As the sole economic member of the LLC, NASDAQ OMX Group is entitled to all distributions made by the LLC. Profits and losses will also be allocated to NASDAQ OMX Group. This is a slight change from the current allocation structure, which allocates such profits and losses to the Exchange rather than directly to its stockholders. However, the LLC is a disregarded entity for tax purposes unlike a corporation, and as such profits and losses need to be allocated to the appropriate members of the LLC. The Trust does not share in such allocation as it has no economic rights associated with the Series A Preferred Stock it holds.[16] Additionally, these Sections of the LLC Agreement require that NASDAQ OMX Group's contributions be noted in the books and records of the LLC and that no member shall be required to make any additional capital contribution to the LLC without its consent and the consent of the Board of Governors. These provisions are virtually identical to provisions 12 through 15 of the NSM LLC Agreement, and given their administrative nature shall have no material substantive effect on the operations of the Exchange. Section 14(b) also incorporates the language of Article FOURTEENTH of the Certificate of Incorporation, relating to distributions to foreign currency options participants, with certain modifications necessary in light of distribution limitations contained in the LLC Act. For example, the entire provision, which discusses certain distributions to foreign currency option participants, is "subject to" the LLC Act to ensure that the mandatory limitations on distributions contained in Sections 18–607 and 18–804 of the LLC Act will be respected in contemplating any distribution under Section 14(b) of the LLC Agreement to the extent such provisions would be applicable to such distributions.

The first sentence of Section 15 of the LLC Agreement, titled Books and Records, is reflective of Article TWELFTH of the Certificate of Incorporation. Section 15 of the LLC Agreement also sets forth certain additional information relating to general administrative matters with respect to the books and records of the LLC including that (i) the Board of Governors will keep and maintain complete books and records of the LLC, (ii) the Stockholders have the right to inspect such books and records, and (iii) the Board of Governors has the right to select method by which the books will be kept and the public accounting firm who will provide any independent audit of such books and records. Given the general administrative nature of such additions, none of these additions shall have any material substantive effect on the manner in which the Exchange is governed by the Board of Governors or the general operations of the Exchange.[17]

Section 16 of the LLC Agreement, titled Limited Liability Company Interests, sets forth the classes of limited liability company interests, denoted as shares, of the LLC and the rights and obligations of each class. The language pertaining to the authorized shares, classes, rights and obligations of the Stockholders contained in this section is virtually identical to the language contained in provision FOURTH of the Certificate of Incorporation, which relates to the current shares and classes of the Exchange. There has been no material change to any of the rights and obligations of the Stockholders. A sentence has been added to allow for the Exchange to issue additional interests or securities in the Exchange upon approval by the Board of Governors.[18] This gives the Exchange versatility in issuing the various "interests" to the members utilizing the Exchange, which are otherwise not contemplated generally in the LLC context. Any such "interests" would be limited in the manner prescribed by the Board of Governors. Also, this Section includes language tracing the conversion of the corporate shares held by the Stockholders into shares of the LLC. Finally, the term "dividend" has been changed to "distribution" as, under the LLC Act, a Delaware LLC makes distributions whereas a Delaware corporation would declare a dividend. This change does not affect the underlying right of the Stockholder to such property; it is merely a change in terminology. The information contained in Section 16 of the LLC Agreement is also set forth in Article XXIX, Section 29–4 of the LLC By-Laws. The definition for "Designated Independent Governors" contained in provision FOURTH of the Certificate of Incorporation is not defined in Section 16, as the definition of this term is already set forth in in [*sic*] Article I of the By-Laws of the LLC. Such definition, other than updating the reference to the applicable governing documents, remains unchanged post-conversion.

Section 17 of the LLC Agreement, titled Other Business, is standard language in the limited liability company context and merely states that the Stockholders may engage in other business other than their interest in the LLC and that the LLC has no rights to such other business or the proceeds derived therefrom. This concept is consistent with that of a stockholder of a corporation in that a stockholder, generally, has no obligation to present opportunities to the corporation or turn over proceeds derived from other ventures of the stockholder. A similar provision is contained in Section 18 of the NSM LLC Agreement.

Section 18 of the LLC Agreement, titled Exculpation and Indemnification, provides for the exculpation and the indemnification of the Stockholders and related persons. The inclusion of such a provision in the limited liability context is not uncommon as it reflects the fact that Stockholders, under the LLC Act, can act on behalf of the LLC to the extent authorized under the LLC Agreement and the LLC By-Laws. As such, it is proposed to provide the same level of exculpation and indemnification for such persons as is given to the Board of Governors to the extent such persons are authorized to act on behalf of the LLC. As such, the same standard of conduct applicable to the Board of Governors under Article SIXTEENTH of the Certificate of Incorporation is proposed to be used in Section 18 of the LLC Agreement. Articles FIFTEENTH and SIXTEENTH of the Certificate of Incorporation, relating to the exculpation and indemnification of the Board of Governors, have been set forth in Article IV, Sections 4–18(g) and 4–18(h) of the LLC By-Laws.

Section 19 of the LLC Agreement is merely a general statement that any

[16] Currently, pursuant to the Certificate of Incorporation at provision FOURTH at (b), the Series A Preferred is entitled to no dividends and a de minimis amount in a liquidation preference. The Series A Preferred Shareholder retains these rights in the LLC Agreement at Section 16 (c)(iii).

[17] A virtually identical provision is set forth in Section 16 of the NSM LLC Agreement.

[18] Specifically, the last sentence of Section 16(a) of the LLC Agreement would state: "The Exchange may issue or establish such other interests in the Exchange or such other Exchange securities as the Board determines in accordance with this Agreement and the By-Laws." With respect to this proposed sentence, the Exchange notes that if it decided to issue or establish such other interests in the Exchange or other Exchange securities, the Exchange would take the necessary corporate actions and would seek the necessary approvals to do so. *See* E-mail from Angela S. Dunn, Assistant General Counsel, Phlx, to Richard Holley, Assistant Director, Division of Trading and Markets, Commission, dated August 25, 2010.

transfer of an interest in the LLC must be made in accordance with the By-Laws and the LLC Agreement. The LLC Agreement addresses transfers in Section 16 thereof. Such section provides certain conditions to the transfer of the outstanding Common Stock and Preferred Stock and, as noted previously, such conditions are virtually identical to those conditions currently contained in provision FOURTH of the Certificate of Incorporation. Additionally, Article XXIX, Section 29–4 of the LLC By-Laws also addresses the transfer of shares in the Exchange. With minor modifications addressing limited liability company specific issues, Article XXIX, Section 29–4 of the LLC By-Laws remains identical to Article XXIX, Section 29–4 of the By-Laws currently in effect.[19]

Section 21 of the LLC Agreement sets forth the events which will cause the dissolution of the LLC, as prescribed by mandatory provisions of the LLC Act or as otherwise agreed among the parties. A similar provision is contained in Section 21 of the NSM LLC Agreement.

Sections 22 through 26 and 28 of the LLC Agreement are general provisions which are relatively standard in limited liability company agreements of Delaware LLCs.[20] These provisions include: A benefits of agreement clause, a severability clause, a binding agreement clause, an entire agreement clause, a governing law clause and a notice provision. We note that the Trustee, Members and Member Organizations are acknowledged as holding rights under the Agreement and included as third-party beneficiaries to the LLC Agreement as is similarly provided in the NSM LLC Agreement.

Section 27 of the LLC Agreement contains the necessary vote under which the LLC Agreement may be amended. Under the Certificate of Incorporation, the Board of Governors had the right to amend the By-Laws currently in effect. Such By-Laws provide for amendment in the manner prescribed in Article XXII, Section 22–1. This same amendment vote has been set forth in Section 27 of the LLC Agreement so that the authority of the Board of Governors to amend will remain unchanged following the conversion.

The provisions in the Certificate of Incorporation have been incorporated into the Certificate of Formation, LLC Agreement and By-Laws as indicated herein but for provisions FIFTH and TENTH. The language used in provision FIFTH of the Certificate of Incorporation was not incorporated verbatim into the LLC Agreement; however, as noted previously, the general concept of this provision is reflected in the last sentence of Section 5 of the LLC Agreement. Additionally, provision TENTH of the Certificate of Incorporation was not carried over to the proposed Agreement because such provision is not consistent with applicable Delaware law in the limited liability company context.

III. Proposed By-Laws of the LLC

As noted above, the Exchange proposes to adopt the By-Laws of NASDAQ OMX PHLX, Inc. as the LLC By-Laws with the changes noted below.

It is proposed to incorporate certain global changes to the By-Laws currently in effect including (i) referencing the Certificate of Formation of the LLC, the LLC By-Laws and/or the LLC Agreement, as applicable, instead of the Certificate of Incorporation as such documents will replace and supersede the Certificate of Incorporation and existing By-Laws, (ii) deleting references to the DGCL (including the definition thereof) throughout the By-Laws as such law will no longer be applicable to the Exchange post-conversion and substituting in lieu thereof the phrase "applicable law," and (iii) updating all references to "NASDAQ OMX PHLX, Inc." to "NASDAQ OMX PHLX LLC" consistent with the name change associated with the conversion.

Specifically, in Article I, titled Definitions, the Exchange proposes to delete the reference to Section 1–1 Definitions. The Exchange proposes to reference the LLC By-Laws, the LLC Agreement and the Trust Agreement in the definition for both Designated Governors and Designated Independent Governor, in lieu of the reference to provision FOURTH of the Certificate of Incorporation, which will no longer be effective post-conversion. None of these changes will have a material substantive effect but are merely reflective of the proposed change in applicable governing documents.

Further, the Exchange proposes to include in the text associated with the term "Member" a sentence that such term as used in the LLC By-Laws is distinct from the usage of member within the meaning of the LLC Agreement and the LLC Act.[21] Again this change has no material substantive effect but merely reflects that the term "member" is a term of art under the LLC Act, with rights and obligations associated with it that are distinct from how the term "Member" is used in the LLC By-Laws. The Exchange also proposes to amend the text in the term "Demutualized [*sic*] Merger" to be historically accurate in that NASDAQ OMX PHLX, Inc. was a party to such transaction rather than the LLC, which was not in existence on the date of such merger.

The term "Stockholder" is proposed to be modified to reflect that NASDAQ OMX Group and the Trust are no longer stockholders of a corporation but members of a Delaware LLC. Such change does not have material substantive effect but is merely a conforming change to the new entity form of the Exchange. The rights and obligations of these persons remain unchanged following the conversion, only the terminology is proposed to be revised. Such definition is consistent with the meaning given to such term in the LLC Agreement.

The Exchange proposes to define "NASDAQ OMX Conversion" to refer to the conversion proposed and described herein from the Delaware corporation, "NASDAQ OMX PHLX, Inc." to the Delaware LLC, "NASDAQ OMX PHLX LLC." The Exchange proposes to eliminate references to the Merger Subsidiary[22] and replace those references with language referencing the conversion to an LLC.

The Exchange proposes to amend Article III, titled Member and Member Organization Nominations—Member and Member Organization Annual Elections—Member and Member Organization Meetings, to remove references to the Certificate of Incorporation and instead reference the By-Laws, as the By-Laws, following the conversion, will be the appropriate governing document.

Section 3–3 of Article III, titled Removal of Designated Governors, is proposed to refer to a special meeting in the first sentence thereof in lieu of the current reference to an annual meeting. The reference to an "annual" meeting is inconsistent with the remainder of the first sentence in Section 3–3. Such sentence discusses a meeting called in accordance with Section 3–2(e). Section 3–2(e) sets forth the procedure to call a

[19] Section 20 of the LLC Agreement is intentionally omitted and may be used at a future date. The Exchange would file a proposed rule change with the Commission if it intended to amend this provision.

[20] For example, *see* Sections 22 through 26, and 28 of the NSM LLC Agreement.

[21] The meaning of "Member" as set forth in the LLC By-Laws is not proposed to change.

[22] This language was added to the By-Laws at the time of the merger between a wholly owned subsidiary of NASDAQ OMX Group and the Philadelphia Stock Exchange, Inc. *See* Securities Exchange Act Release Nos. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR–Phlx–2008–31); and 58183 (July 17, 2008), 73 FR 42850 (July 23, 2008) (SR–NASDAQ–2008–035).

"special" meeting not an "annual" meeting. As such, the correct meeting reference is to a "special" meeting not an "annual" meeting. The Exchange proposes to make this change so that the sentence is consistent throughout. This proposal does not amend the composition of the Board of Governors.

The Exchange proposes to amend Article IV, titled Board of Governors, to remove references to the Merger and Merger Subsidiary and instead reference the Conversion. Section 4–18 of Article IV of the LLC By-Laws, titled Indemnification, is proposed to reflect the relevant indemnification standard provided in provision FIFTEENTH of the Certificate of Incorporation pertaining to the indemnification of Governors. It is proposed to include in Section 4–21 of Article IV of the LLC By-Laws clarifying language regarding the necessary purpose behind a books and records inspection request. Such language is consistent with and provided by the LLC Act.

The Exchange proposes to add a Section 4–24 to Article IV of the LLC By-Laws. This provision, entitled "Interested Transactions" is substantially identical to the language used in provision ELEVENTH of the Certificate of Incorporation and ensures that the guidelines relating to the types of transactions described therein are retained following the conversion of the Exchange.

The Exchange proposes to remove the reference to "corporate" in each instance where the phrase "corporate seal" is used in Article V of the current By-Laws, specifically Section 5–8. The term "corporate" is not applicable to the Exchange post-conversion.

The Exchange proposes certain changes to Article VIII, titled Presiding Officials of the Exchange, Article X, titled Standing Committees, Article XII, titled Permits-Eligibility-Election-Initiation Fee, Article XV, titled Transfer of Foreign Currency Options Participations, Article XVII, titled Insolvency-Suspension-Reinstatement, and Article XVIII, titled Offenses, Discipline, Penalties and Business Connections [*sic*], to add clarifying language, correct minor inconsistencies and remove extraneous language within these sections. These changes have no material substantive effect on the above noted provisions or the operations of the Exchange but are merely clerical in nature.

The Exchange proposes to make certain clerical changes to Article XV, titled Transfer of Foreign Currency Options Participations. These changes are not substantive in nature and merely reflect a reorganization of the existing provisions. Specifically, the terms ordering Section 15–3 (*e.g.* "First") have been deleted as such terms are redundant in light of the phrase "in the following order of seniority" contained in Section 15–3(a). Additionally, the sub-sections of Section 15–3(a)(iii) have been given a letter ordering designation. Finally, the sub-section of Section 15–3 entitled "Balance of Proceeds" has been moved to follow the last paragraph relating to the priority of payments in order to have such sub-section be in the appropriate payment priority. Such sub-section was not otherwise modified.

The Exchange proposes to incorporate additional language to the transfer provision contained in Article XXIX, Section 29–4(b) to address Delaware LLC-specific issues. The existing conditions to transfers previously set forth in Section 29–4(b) remain unchanged. Rather, the additional language in the first sentence of Section 29–4(b) merely adds a new requirement to the effectiveness of a transfer. Under the proposed Section 29–4(b), a written instrument in which the transferee agrees to be bound by the LLC Agreement must be delivered along with the other instruments noted in Section 29–4(b) prior to a transfer being effective. This will ensure that any transferee is aware of, and bound by, all relevant governing provisions. Additionally, two sentences have been added to this subsection in order to address the admission of any transferee who complies with this Section to the LLC. Unlike a stockholder in the corporation, a transferee needs to be admitted to the LLC before it can obtain the rights of a member thereof. This is an additional formality in the limited liability company context that needs to be provided for; however, the provision for admission contained in Section 29–4(b) does not effect a material substantive change on the transfer provision as a whole but is merely reflective of a nuance specific to the limited liability company form. To the extent that a transferee complies with Section 29–4, the additional language provides that they will automatically be admitted to the LLC.

IV. Other Provisions of the Certificate of Incorporation

There are two other Articles of the Certificate of Incorporation of NASDAQ OMX PHLX, Inc. which are reflected in the By-Laws of the Exchange. Article SEVENTH is set forth in By-Law Article XXVIII, Section 28–13 and titled Action Without a Meeting. Also, Article EIGHTH of the Certificate of Incorporation is set forth in By-Law Article XXVIII, Section 28–1 and titled Place of Stockholder Meetings. The LLC Agreement and attached By-Laws provide the Board the ability to amend documents as set forth in By-Law Article XXII, Section 22–1, Amendments to By-Laws as well as Section 27 of the LLC Agreement.

The Exchange intends for this proposal to be operative upon filing with the State of Delaware.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [23] in general, and furthers the objectives of Section 6(b)(5) of the Act [24] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by streamlining all subsidiary self-regulatory organizations of NASDAQ OMX Group to conform the corporate documents and provide clarity to its members. The proposed amendments will not impact the rights of members or the sole shareholder, both of which will continue to be entitled to all rights and privileges that exist under the governing documents of NASDAQ OMX PHLX, Inc.[25]

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 on 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] "The conversion of any entity into a domestic limited liability company shall not be deemed to affect any obligations or liabilities of the other entity prior to its conversion to a domestic limited liability company * * *" *See* 6 Del. C. § 18–214(e).

19(b)(3)(A)(ii) of the Act [26] and Rule 19b–4(f)(6) [27] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [28] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[29] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[30] The Exchange represents that the proposal "does not impact either the members of NASDAQ OMX PHLX, Inc. or the public" and only "impacts the administrative functions of the Exchange." [31] Additionally, the Commission notes that the Exchange represents that the proposed Certificate of Formation, LLC Agreement, and By-Laws reflect all of the current rights and obligations of the members and owners of the Exchange, and that the proposed LLC Agreement is consistent in form and scope with the limited liability company agreement of another self-regulatory organization previously approved by the Commission.[32] Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change to be operative on September 1, 2010.

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–2010–104 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–Phlx–2010–104. 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–Phlx–2010–104 and should be submitted on or before September 24, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22023 Filed 9–2–10; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

[27] 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.

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6)(iii).

[30] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[31] *See* SR–PHLX–2010–104 at Item 7.

[32] *See supra* note 4 and accompanying text, and discussion in Section II.A.1.

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62798; File No. SR–FINRA–2010–032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Clearly Erroneous Transactions

August 30, 2010.

On June 17, 2010, the Financial Industry Regulatory Authority, Inc. ("FINRA") 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] a proposed rule change to amend its rules to set forth clearer standards and curtail its discretion with respect to breaking erroneous trades.

Section 19(b)(2) of the Act [4] 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 this filing was August 2, 2010.[5] The Commission had received an extension of time from FINRA until August 16, 2010.[6] The Commission extended this time period until August 30, 2010.[7] The Commission is again extending this time period.

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 this proposed rule change, relating to the amendment of clearly erroneous execution rules to provide greater transparency and certainty to the process of breaking trades, and the comment letters that have been submitted in connection with the filing.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 62341 (June 21, 2010), 75 FR 36756 (June 28, 2010).

[6] FINRA submitted through the Commission's Electronic Form 19b–4 Filing System an extension of time period for Commission action through August 16, 2010.

[7] *See* Securities Exchange Act Release No. 62729 (August 16, 2010), 75 FR 52384 (August 25, 2010).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[8] designates September 10, 2010, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule change.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22029 Filed 9–2–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62797; File Nos. SR–BATS–2010–016; SR–BX–2010–040; SR–CBOE–2010–056; SR–CHX–2010–13; SR–EDGA–2010–03; SR–EDGX–2010–03; SR–ISE–2010–62; SR–NASDAQ–2010–076; SR–NSX–2010–07; SR–NYSE–2010–47; SR–NYSEAmex–2010–60; SR–NYSEArca–2010–58]

Self-Regulatory Organizations; BATS Exchange, Inc.; NASDAQ OMX BX, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; International Securities Exchange LLC; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Changes Relating to Clearly Erroneous Transactions

August 30, 2010.

On June 17, 2010, each of BATS Exchange, Inc. ("BATS"), NASDAQ OMX BX, Inc. ("BX"), Chicago Board Options Exchange, Incorporated ("CBOE"), Chicago Stock Exchange, Inc. ("CHX"), EDGA Exchange, Inc. ("EDGA"), EDGX Exchange, Inc. ("EDGX"), International Securities Exchange LLC ("ISE"), The NASDAQ Stock Market LLC ("Nasdaq"), National Stock Exchange, Inc. ("NSX"), New York Stock Exchange LLC ("NYSE"), NYSE Amex LLC ("NYSE Amex"), and NYSE Arca, Inc. ("NYSE Arca") (collectively, the "Exchanges") 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 set forth clearer standards and curtail their discretion with respect to breaking erroneous trades.

Section 19(b)(2) of the Act[4] 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 the filings submitted by BATS, BX, CBOE, CHX, EDGA, EDGX, ISE, Nasdaq, NSX, NYSE, and NYSE Amex, was August 2, 2010.[5] The 35th day for the filing submitted by NYSE Arca was August 3, 2010.[6] The Commission had received an extension of time from the Exchanges until August 16, 2010.[7] The Commission extended this time period until August 30, 2010.[8] The Commission is again extending this time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule changes so that it has sufficient time to consider these proposed rule changes, relating to the amendment of clearly erroneous execution rules to provide greater transparency and certainty to the process of breaking trades, 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,[9] designates September 10, 2010, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule changes.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22024 Filed 9–2–10; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(2).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release Nos. 62330 (June 21, 2010), 75 FR 36725 (June 28, 2010); 62331 (June 21, 2010), 75 FR 36746 (June 28, 2010); 62332 (June 21, 2010), 75 FR 36749 (June 28, 2010); 62333 (June 21, 2010), 75 FR 36759 (June 28, 2010); 62334 (June 21, 2010), 75 FR 36732 (June 28, 2010); 62336 (June 21, 2010), 75 FR 36743 (June 28, 2010); 62337 (June 21, 2010), 75 FR 36739 (June 28, 2010); 62338 (June 21, 2010), 75 FR 36762 (June 28, 2010); 62339 (June 21, 2010), 75 FR 36765 (June 28, 2010); 62340 (June 21, 2010), 75 FR 36768 (June 28, 2010); and 62342 (June 21, 2010), 75 FR 36752 (June 28, 2010).

[6] *See* Securities Exchange Act Release No. 62335 (June 21, 2010), 75 FR 37494 (June 29, 2010).

[7] The Exchanges submitted through the Commission's Electronic Form 19b–4 Filing System extensions of the time period for Commission action through August 16, 2010.

[8] *See* Securities Exchange Act Release No. 62730 (August 16, 2010), 75 FR 52383 (August 25, 2010).

[9] 15 U.S.C. 78s(b)(2).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and 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.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than November 2, 2010. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Modified Benefit Formula Questionnaire-Employer—20 CFR 401 & 402—0960–0477.* SSA collects information on Form SSA–58 to verify the claimant's allegations on Form SSA–150 (OMB #0960–0395, Modified Benefits Formula Questionnaire). SSA uses the SSA–58 to determine if the modified benefit formula is applicable and when to apply it to a person's benefit. SSA sends Form SSA–58 to an

employer for pension-related information, if the claimant is unable to provide it. The respondents are employers of people who are eligible after 1985 for both Social Security benefits and a pension based on work not covered by SSA.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden per Response: 20 minutes.

Estimated Annual Burden: 10,000.

II. SSA has submitted the information collections listed below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 4, 2010. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. *Medical Report (General)—20 CFR 404.1512–404.1515, 416.912–416.915—0960–0052.* Through the State Disability Determination Services (DDS), SSA uses Form SSA–3826–F4 to make accurate determinations in disability claims cases. SSA collects the information to determine the claimant's physical and mental status prior to making a disability determination, and to document the disability claims folder with the medical evidence. The form provides disability adjudicators and reviewers with a narrative record and history of the disability and the objective medical findings necessary to make a disability determination. SSA uses the medical evidence from this form to determine if an individual's impairment meets the severity and duration requirements for disability benefits. The respondents are members of the medical community, including individual physicians, hospital doctors, medical records librarians, and other medical sources.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 150,000.

Frequency of Response: 1.

Average Burden per Response: 30 minutes.

Estimated Annual Burden: 75,000 hours.

2. *Disability Report—Child—20 CFR 416.912—0960–0577.* When claimants file for childhood disability benefits under the Supplemental Security Income (SSI) program, they must furnish medical and other evidence to prove they are disabled.

Form SSA–3820 collects various types of information about a child's condition from treating sources and other medical sources of evidence. The DDS evaluators use the information to develop medical and school evidence and assess the alleged disability. The information, together with medical evidence, forms the evidentiary basis upon which SSA makes its initial disability evaluation. The respondents are claimants seeking SSI childhood disability payments.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of respondents	Average burden per responses (minutes)	Estimated annual burden (hours)
SSA–3820 (Paper Form)	500	1	60	500
Electronic Disability Collection System EDCS)	422,000	1	34	239,133
I3820 (Internet)	93,293	1	120	186,586
Totals	515,793			426,219

3. *Letter to Custodian of Birth Records/Letter to Custodian of School Records—20 CFR 404.704, 404.716, 416.802, and 422.107—0960–0693.* SSA prepares the SSA–L106 and SSA–L706 for individuals who need help in obtaining evidence of their age in connection with Social Security number (SSN) card applications and claims for benefits. SSA also uses the SSA–L706 to determine the existence of primary evidence of age for SSN applicants. SSA uses both letters to verify with the issuing entity, when necessary, the authenticity of the record submitted by the SSN applicant or claimant. The respondents are schools, State and local bureaus of vital statistics, and religious entities.

Note: This is a correction notice: SSA published this information collection with the correct burden hours at 75 FR 35512 on June 22, 2010. However, we did not show the breakdown of burden hours for the different types of respondents. We are correcting that error here.

Type of Request: Revision of an OMB-approved information collection.

SSA–L106

Type of respondents	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Private Sector	1,800	1	10	300
State/Local/Tribal Government	1,800	1	10	300
Totals	3,600			600

SSA–L706

Type of respondents	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Private Sector	1,800	1	10	300
State/Local/Tribal Government	1,800	1	10	300

SSA–L706—Continued

Type of respondents	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Totals	3,600			600

4. *Cost Reimbursable Research Request—20 CFR 401.165—0960–0754.* Qualified researchers need SSA administrative data for a variety of projects. To request SSA's program data for research, a researcher must submit a completed research application, Form SSA–9901, How to Request SSA Program Data for Research, for SSA's evaluation. In the application, the requesting researcher must provide basic project information, and describe the way in which the proposed project will further SSA's mission to promote the economic security of the Nation's people through its administration of the Old Age, Survivors, and Disability Insurance Programs, and the SSI Program. SSA reviews the application and, once we approve it, the researcher signs Form SSA–9903, SSA Agreement Regarding Conditions for Use of SSA Data, which outlines the conditions and safeguards for the research project data exchange. The researcher may use the data for research and statistical purposes only, and must complete Form SSA–9902, Confidentiality Agreement. SSA recovers all expenses incurred in providing this information as part of this reimbursable service. The respondents are Federal and State government agencies or their contractors, private entities, and colleges or universities.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 15.

Frequency of Response: 1.

Average Burden per Response: 240 minutes.

Estimated Annual Burden: 60 hours.

5. *Authorization to Release Medical Report to Physician—20 CFR 401.55 & 401.100—0960–0761.* When evidence provided by a disability claimant is inadequate for SSA to determine the disability, SSA requests a consultative examination (CE) for additional information or clarification. If the claimants, their court appointed representatives, or the parents of a minor child want the CE report sent to the claimant's treating physician, they complete Form SSA–91 and send it to SSA for processing. SSA uses the information on the SSA–91 to release the CE report to the authorized physician. Respondents are applicants for disability claims.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 7,922.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 660 hours.

6. *Application Status—20 CFR 401.45—0960–0763.* Application Status provides users with the capability to check the status of their pending Social Security claims either via the Internet or the National 800 Number Automated Telephone Service. Users need their SSN and a confirmation number to access this information. The Application Status shows users when SSA received the application, if we requested additional documents (*e.g.,* military discharge papers, W–2s, birth records, *etc.*), and provides the address for the office that is processing their application. Once SSA makes a decision on a claim, we post a copy of the decision notice online for the user to view. There are some exceptions to posting a copy online, such as disability denial notices (even if filed electronically), or claims that users did not file via the Internet, as we may not have those notices available for online review. Users access this application either via *http://www.ssa.gov/onlineservices/*, or through the National 800 Number. Respondents are Social Security claimants.

Type of Request: Extension of an OMB-approved information collection.

Type of request	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Automated Telephone Services	764,885	1	2	25,496
Internet Services	2,881,804	1	1	48,030
Totals	3,646,689			73,526

Dated: August 31, 2010.

Liz Davidson,

Center Director, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2010–22068 Filed 9–2–10; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2010–0016]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Office of Personnel Management (OPM)—Match Numbers 1005, 1019, 1020, and 1021

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that is scheduled to expire on October 6, 2010.

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 OPM.

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 (Public Law (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,

Chair, Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Office of Personnel Management (OPM)

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

The purpose of this matching program is to set forth the conditions, terms, and safeguards under which OPM will disclose civil service benefit and payment data to us. We are legally required to offset specific benefits by a percentage of civil service benefits received (Spousal and Survivors benefits, Supplemental Security Income (SSI) benefits, and Disability Insurance Benefits are offset by a percentage of the recipient's own Federal government pension benefits). The Old-Age, Survivors, Disability Insurance (OASDI), SSI, and Special Veterans' Benefits (SVB) programs administered by us will use the match results under this agreement to meet its civil service benefit offset obligations. The OASDI programs are social insurance programs. The SSI program pays benefits to aged, blind, and disabled recipients with incomes below levels established by law and regulations. The SVB program provides special benefits to certain World War II veterans. Specific information regarding the matching programs to be conducted because of the disclosure is provided in the appendices.

C. Authority for Conducting the Matching Program

The legal authority for SSA to conduct this matching activity for SSI purposes is contained in section 1631(e)(1)(B) and (f) of the Social Security Act (Act) (42 U.S.C. 1383(e)(1)(B) and (f)) and for the SVB purposes is contained in section 806 of the Act (42 U.S.C. 1006). Section 224 of the Act (42 U.S.C. 424a) provides for the reduction of Social Security disability benefits when the disabled worker is also entitled to a Public Disability Benefit. Sections 215(a)(7) and 215(d)(3) of the Act (42 U.S.C. 415(a)(7) and 415(d)(3)) provide for a modified benefit computation to be used for certain beneficiaries who are concurrently entitled to both Social Security benefits and a monthly periodic payment based in whole or in part on employment not covered by Social Security, including a civil service benefit. This modified benefit computation is called the Windfall Elimination Provision. Section 202(k)(5)(A) of the Act (42 U.S.C. 402 (k)(5)(A)) requires that SSA reduce the Social Security benefits of certain beneficiaries entitled to Social Security spouse's benefits who are also entitled to a government pension based on their own noncovered earnings. This reduction is referred to as Government Pension Offset.

Section 1631(f) of the Act requires Federal agencies to furnish SSA with information necessary to verify eligibility, and section 224(h)(1) of the Act requires any Federal agency to provide SSA with information in its possession that SSA may require for the purposes of making a timely determination of the amount of reduction under section 224 of the Act.

D. Categories of Records and Persons Covered by the Matching Program

OPM will provide SSA with an electronic file containing civil service benefit and payment data from the annuity and survivor master file. The **Federal Register** designation for the OPM file is OPM/Central-1 Civil Service Retirement and Insurance Records. Pursuant to 5 U.S.C. 552a(b)(3), OPM established routine uses to disclose the subject information to SSA.

Each record on the OPM file will be matched for Social Security Number (SSN) verification to SSA's Master Files of SSN Holders and SSN Applications. The **Federal Register** designation for the SSA file is Master Files of SSN Holders and SSN Applications, SSA/OSR, 60–0058. Those records verified will then be matched to SSA's SSI and SVB payment information maintained in the SSR and SVB. The **Federal Register** designation for the SSA file is SSR and SVB, SSA/OSR, 60–0103.

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. 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. 2010–22000 Filed 9–2–10; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2010–0212]

Agency Request for Approval of a Previously Approved Information Collection(s): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations

AGENCY: Office of the Secretary.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew a previously approved information collection. This information collection involves the use of various forms necessary because of management and oversight responsibilities of the agency imposed by OMB Circular 2 CFR 215 (A–110) (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) and OMB Circular A–102 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). These forms include Application for Federal Assistance (SF–424), Federal Financial Report (SF–425), Request for Advance or Reimbursement (SF–270), and Outlay Report and Request for Reimbursement for Construction Programs (SF–271).

The Department has terminated Financial Status Report (SF–269 and SF–269A) and Federal Cash Transactions Report (SF–272 and SF–272A). The information contained in these forms is now consolidated into SF–425, which was approved by OMB for Federal-wide use on October 1, 2008 and recently revised on June 28, 2010. We are required to publish this notice in the **Federal Register** in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments must be submitted November 2, 2010.

ADDRESSES: You may submit comments identified by Docket No. DOT–OST–2010–0212 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Associate Director of the Financial Assistance Management Division, M–65, Office of the Senior Procurement Executive, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–4268. Refer to OMB Control Number 2105–0520.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0520.

Title: Uniform Administrative Requirements For Grants and Cooperative Agreements to State and Local Governments and For Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

Form Numbers: SF–424, SF–425, SF–270, and SF–271.

Type of Request: Revision of a previously approved collection.

Abstract: This request combines two previously approved Information Collection Requests (ICR) (OMB Control numbers 2105–0531 and 2105–0520) into OMB Control Number 2105–0520. The Department is also requesting the renewal of information and collection requirements imposed by OMB Circular A–110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, which the Department of Transportation codified at 49 CFR 18.40, 18.41 and 19), and OMB Circular 102 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). OMB provides management and oversight of the circulars. OMB also provides for a standard figure of seventy burden hours per grantee annually for completion of required forms. This collection covers only those DOT programs that utilize the standard OMB forms SF–424, SF–425, SF–270, and SF–271. The Department requests the Discontinuance of SF–269, SF–269A, SF–272, and SF–272A as well as OMB Control Number 2105–0531.

The Department's request for approval of the Federal Financial Report (FFR) (SF–425) is based on the **Federal Register** notice dated August 13, 2008, which states "As soon as possible after October 1, 2008, and no later than October 1, 2009, each agency must transition from the SF–269, SF–269A, SF–272, and SF–272A to the SF–425, by requiring recipients to use the FFR for all financial reports submitted after the date it makes the transition. In making the transition, an agency would incorporate the requirement to use the FFR into terms and conditions of new and ongoing grant and cooperative agreement awards, State plans, and/or program regulations that specify financial reporting requirements." Comments on this notice were received and addressed in a **Federal Register** notice dated August 13, 2008 (72 FR, 69236). These comments and responses can be found on the OMB Forms Web site at *http://www.whitehouse.gov/omb/grants/grants_standard_report_forms.html.*

Respondents: Grantees.

Estimated Number of Respondents: 3,329.

Estimated Frequency: Quarterly.

Estimated Number of Responses: 10,814.

Estimated Total Annual Burden: 756,980 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. 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.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on August 30, 2010.

Patricia Lawton,

DOT Paperwork Reduction Act Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2010–22048 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1020 (Sub-No. 1X)]

East Penn Railroad, LLC—Abandonment Exemption—in Montgomery County, PA

East Penn Railroad, LLC (ESPN) filed a verified notice of exemption under 49

CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 2.14-mile line of railroad between milepost 0.0 in the Borough of Bridgeport, and milepost 2.14 at Henderson Road in Upper Merion Township, in Montgomery County, Pa. The line traverses United States Postal Service Zip Codes 19401 and 19406.

ESPN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has been handled on the line;[1] (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 6, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 13, 2010. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 23, 2010, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to ESPN's representative: Karl Morell, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

ESPN has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 10, 2010. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), ESPN shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by ESPN's filing of a notice of consummation by September 3, 2011, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: August 30, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–21948 Filed 9–2–10; 8:45 am]

BILLING CODE 4915–01–P

[1] According to ESPN, the line is stub-ended and not capable of handling overhead traffic.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 704X)]

CSX Transportation, Inc.—Abandonment Exemption—in Clay County, KY

CSX Transportation, Inc. (CSXT) filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 2.95-mile of railroad on its Southern Region, Huntington Division West, CV Subdivision, extending from milepost 0CF 208.71 to milepost 0CF 211.66, known as the Horse Creek Branch, in Manchester, Clay County, KY. The following stations are located on the line: (1) Claymont, milepost 0CF208; (2) Greenleaf, milepost 0CF210; (3) Red Bird, milepost 0CF203; (4) Orford, milepost 0CF214; (5) Sibert, milepost 0CF216; (6) North Ridge, milepost 0CF212; and (7) Becky Ann2, milepost 0CF217. The line traverses United States Postal Service Zip Code 40962.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad & The Union Pacific Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 5, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

CFR 1152.29 must be filed by September 13, 2010. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 23, 2010, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Kathryn R. Barney, CSX Transportation, Inc., 500 Water Street, J–150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 10, 2010. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by September 3, 2011, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 27, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–22020 Filed 9–2–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2010–0124]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before November 2, 2010.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments on the electronic docket site by clicking on "Help" or "FAQ."
- *Hand Delivery:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

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: 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) or you may visit *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Kil-Jae Hong, NHTSA, 1200 New Jersey Avenue, SE., W52–232, NPO–520, Washington, DC 20590. Ms. Hong's telephone number is (202) 493–0524.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: 49 CFR 575—Consumer Information Regulations (sections 103 and 105) Qualitative Research.

OMB Control Number: Not Assigned.

Form Number: None.

Affected Public: Passenger vehicle tire consumers and tire retailers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: The Energy Independence and Security Act of 2007 (EISA), enacted in December 2007, included a requirement that the National Highway Traffic Safety Administration (NHTSA) develop a national tire fuel efficiency program to educate consumers about the effect of tires on automobile fuel efficiency, safety and durability. A critical step in developing the consumer information program is to conduct proper market research to understand consumers' knowledge of tire maintenance and performance, understand the tire purchase process from both the consumer and retailer's perspectives, evaluate comprehension of ratings, exploring the clarity, meaningfulness and the likely resulting behaviors, and evaluating the creative and the channels for communication. NHTSA proposes a multi-phased research project to gather the data and apply analyses and results from the project to develop the consumer information program.

Estimated Annual Burden: 107.

Number of Respondents: 73.

NHTSA will conduct two research phases. For the first phase, which this notice addresses, NHTSA will conduct two types of qualitative research. One research project will consist of two (2) focus groups in three (3) cities. Each group will have eight (8) participants and will last two (2) hours for a total of 96 participant hours. For the second research project in this phase, NHTSA will conduct on-site interviews at various tire retailers. NHTSA anticipates 25 respondents with each interview taking 25 minutes for a total of approximately 11 participant hours. The results of this research phase, as well as comments received to a separate notice, that will be published soon, will be used to finalize the content of an online survey NHTSA will conduct in the second research phase.

The estimated annual burden hour for the first phase of research is 107 hours. Based on the Bureau of Labor and Statistics' median hourly wage (all occupations) in the May 2009 National Occupational Employment and Wage Estimates, NHTSA estimates that it will take an average of $15.95 per hour for professional and clerical staff to gather data, distribute and print material. Therefore, the agency estimates that the cost associated with the burden hours is $1,706.65 ($15.95 per hour × 107 burden hours).

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: August 30, 2010.

Gregory A. Walter,

Senior Associate Administrator, Policy and Operations.

[FR Doc. 2010–22011 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2010–0123]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before November 2, 2010.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments on the electronic docket site by clicking on "Help" or "FAQ."
- *Hand Delivery:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

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: 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) or you may visit *http://www.dot.gov/privacy.html*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Kil-Jae Hong, NHTSA, 1200 New Jersey Avenue, SE., W52–232, NPO–520, Washington, DC 20590. Ms. Hong's telephone number is (202) 493–0524.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic,

mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: 49 CFR 575—Consumer Information Regulations (sections 103 and 105) Qualitative Research.

OMB Control Number: Not Assigned.

Form Number: None.

Affected Public: Passenger vehicle consumers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: The Energy Independence and Security Act of 2007 (EISA), enacted in December 2007, included a requirement that the National Highway Traffic Safety Administration (NHTSA) develop a consumer information and education campaign to improve consumer understanding of automobile performance with regard to fuel economy, Greenhouse Gases (GHG) emissions and other pollutant emissions; of automobile use of alternative fuels; and of thermal management technologies used on automobiles to save fuel. A critical step in developing the consumer information program is to conduct proper market research to understand consumers' knowledge surrounding these issues, evaluate potential consumer-facing messages in terms of clarity and understand the communications channels in which these messages should be present. The research will allow NHTSA to refine messaging to enhance comprehension and usefulness and will guide the development of an effective communications plan. NHTSA proposes a multi-phased research project to gather the data and apply analyses and results from the project to develop the consumer information program and education campaign.

Estimated Annual Burden: 128.

Number of Respondents: 64.

NHTSA will conduct two research phases. For the first phase, which this notice addresses, NHTSA will conduct one type of qualitative research. This research project will consist of two (2) focus groups in four (4) cities. Each group will have eight (8) participants and will last two (2) hours for a total of 128 participant hours. The results of this research phase, as well as comments received to a separate notice published today, will be used to finalize the content of an online survey NHTSA will conduct in a second research phase.

The estimated annual burden hour for the first phase of research is 128 hours. Based on the Bureau of Labor and Statistics' median hourly wage (all occupations) in the May 2009 National Occupational Employment and Wage Estimates, NHTSA estimates that it will take an average of $15.95 per hour for professional and clerical staff to gather data, distribute and print material. Therefore, the agency estimates that the cost associated with the burden hours is $2,041.60 ($15.95 per hour × 128 burden hours).

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: August 30, 2010.

Gregory A. Walter,

Senior Associate Administrator, Policy and Operations.

[FR Doc. 2010–22008 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236, as detailed below.

Docket Number FRA–2010–0134

Applicant: Mr. James V. Samuelson, Deputy General Manger—Safety & Training, New Jersey Transit, One Penn Plaza East, Newark, New Jersey 07105–2246.

The New Jersey Transit (NJT) seeks relief from the 2 year periodic testing requirements of the Rules, Standards, and Instructions, Title 49 CFR part 236, §§ 236.377 Approach Locking, 236.378 Time Locking, 236.379 Route Locking, 236.380 Indication Locking, and 236.381 Traffic Locking, on vital microprocessor-based systems. NJT proposes to verify and test signal locking systems controlled by microprocessor-based equipment by use of alternative procedures every 4 years after initial baseline testing or program change as follows:

- Verification of the Cyclic Redundancy Check (CRC)/Check Sum/Universal Control Number (UNC) of the existing location's specific application logic to the previously tested version.
- Testing the appropriate interconnection to associated signaling hardware equipment outside the processor (switch indication, track indication, signal indication, approach locking (if external)) to verify correct and intended inputs to and outputs from the processor are maintained.
- Analyzing and comparing the results of the 4 year alternative testing with the results of the baseline testing performed at the location and submit the results to FRA.
- All records of locking tests will identify the method used (*i.e.,* conventional, baseline, or subsequent alternative method).

Applicant's justification for relief: Many of NJT's interlocking, controlled points and other locations are controlled by solid-state vital microprocessor-based systems. These systems utilize programmed logic equations in lieu of relays and other mechanical components for control of both vital and non-vital functions. The logic does not change once a microprocessor-based system has been tested. Locking tests are documented on installation.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0134) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov*.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the 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).

Issued in Washington, DC on August 30, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22006 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

[Docket Number FRA–2010–0130]

Applicant: Mr. Geoffrey P. Hubbs, Chief Engineer Signals, New Jersey Transit, One Penn Plaza East, Newark, New Jersey 07105–2246.

The New Jersey Transit (NJT) seeks approval of the proposed discontinuance and removal of six power-operated derails at Lower Hack Interlocking at milepost (MP) 2.7 on the Morristown Line, Hoboken Division. The existing facility is a remotely-controlled movable bridge interlocking located within a traffic control system on either side of the bridge on three main tracks.

NJT is the owner and operator of the line. The Norfolk Southern Corporation and Morristown and Erie Railway, Inc. operate local freight service on this portion of the line.

The reason given for the proposed changes is to improve reliability and retire facilities no longer required for present train operations.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0130) and may be submitted by any of the following methods:

• *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the 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).

Issued in Washington, DC, on August 31, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22101 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Skowhegan and Madison, Somerset County, ME

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent to Terminate (Withdraw) EIS.

SUMMARY: The FHWA is issuing this notice to advise the public that the Environmental Impact Statement (EIS) process for a proposed highway project examining both new highway alignments and infrastructure improvements to enhance transportation mobility and accessibility through and around Skowhegan in the Towns of Skowhegan and Madison, Maine is terminated (withdrawn). The original Notice of Intent for this EIS process was published in the **Federal Register** on November 29, 2005.

FOR FURTHER INFORMATION CONTACT: Mark Hasselmann, Right of Way and Environmental Programs Manager, Federal Highway Administration, Maine Division, 40 Western Avenue, Augusta, Maine 04330, Telephone (207) 622–8350, extension 103; or Judy Lindsey, Project Manager, Maine Department of Transportation, State House Station 16, Augusta, Maine 04333–0016, Telephone (207) 624–3291.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maine Department of Transportation (MaineDOT), has terminated the EIS process begun in 2005 to address mobility and accessibility needs through and around Skowhegan, Somerset County, Maine. Work on the EIS is being discontinued due to adverse economic and environmental impacts, lack of community support, and a lack of design and construction funds. Therefore, the EIS for this project has been terminated. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations

implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48

Issued on: August 25, 2010.

Cheryl B. Martin,

Assistant Division Administrator, Federal Highway Administration, Augusta, Maine.

[FR Doc. 2010–21811 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Government/Industry Aeronautical Charting Forum Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the bi-annual meeting of the Federal Aviation Administration (FAA) Aeronautical Charting Forum (ACF) to discuss informational content and design of aeronautical charts and related products, as well as instrument flight procedures development policy and design criteria.

DATES: The ACF is separated into two distinct groups. The Instrument Procedures Group (IPG) will meet October 26, 2010 from 8:30 a.m. to 5 p.m. The Charting Group will meet October 27 and 28, 2010 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be hosted by the MITRE Corporation, 7515 Colshire Drive, Building 2, Room 1N100, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: For information relating to the Instrument Procedures Group, contact Thomas E. Schneider, FAA, Flight Procedures Standards Branch, AFS–420, 6500 South MacArthur Blvd., P.O. Box 25082, Oklahoma City, OK, 73125; telephone: (405) 954–5852; fax: (405) 954–2528.

For information relating to the Charting Group, contact John A. Moore, FAA, National Aeronautical Navigation Services (AeroNav Services) Group, Regulatory Support and Coordination Team, AJW–372. 1305 East-West Highway, SSMC4–Station 5544, Silver Spring, MD, 20910; telephone: (301) 427–5154, fax: (301) 427–5412.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aeronautical Charting Forum to be held from October 26 through October 28, 2010, from 8:30 a.m. to 5 p.m. at the MITRE Corporation, 7515 Colshire Drive, Building 2, Room 1NIOO, McLean, VA 22102.

The Instrument Procedures Group agenda will include briefings and discussions on recommendations regarding pilot procedures for instrument flight, as well as criteria, design, and developmental policy for instrument approach and departure procedures.

The Charting Group agenda will include briefings and discussions on recommendations regarding aeronautical charting specifications, flight information products, as well as new aeronautical charting and air traffic control initiatives. Attendance is open to the interested public, but will be limited to the space available.

Please note there are special security requirements for access to the MITRE Corporation. A picture I.D. is required of all US citizens. All foreign national participants are required to have a passport. Additionally, not later than October 12, 2010, foreign national attendees must provide their name, country of citizenship, company/organization, and country of the company/organization. Send the information to: Al Herndon, MITRE Corporation, Mail Stop N–390, 7515 Colshire Drive, McLean, VA 22102, or via e-mail (preferred) to: *aherndon@mitre.org.*

Foreign nationals who do not provide the required information will not be allowed entrance—NO EXCEPTIONS.

The public must make arrangements by October 8, 2010, to present oral statements at the meeting. The public may present written statements and/or new agenda items to the committee by providing a copy to the person listed in the **FOR FURTHER INFORMATION** section not later than October 8, 2010. Public statements will only be considered if time permits.

Issued in Washington, DC, on August 24, 2010.

John A. Moore,

Co-Chair, Aeronautical Charting Forum.

[FR Doc. 2010–21925 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA NextGen Advisory Committee (NAC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA NextGen Advisory Committee (NAC).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA NextGen Advisory Committee (NAC).

DATES: The meeting will be held September 23, 2010, from 8:30 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at Bessie Coleman Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

METRO: L'Enfant Plaza Station (Use 7th & Maryland Exit).

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the NextGen Advisory Committee meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions).
- Review Terms of Reference and Initial Tasking.
- Overview of NextGen—Setting the stage for Committee actions.
- RTCA Task Force 5 Recommendations.
- FAA Actions and Activities.
- International Perspective.
- Close-out ATMAC Action Items.
- Trajectory Ops WG Recommendations.
- Tracking August 4th ATMAC Recommendations going forward.
- RTCA Joint WG Metroplex Recommendations.
- Discussion of Initial Task.
- Discussion of Requested New WG Tasks.
- Review Working Subcommittee.
- Overview of ATMAC Workgroups and Discussion of Required Skills and Expertise for Future Workgroups.
- Set Meeting Dates for 2011.
- Closing Plenary (Other Business, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FUTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 30, 2010.

Robert L. Bostiga,

RTCA Advisory Committee.

[FR Doc. 2010–22098 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35402]

Piedmont & Northern Railway, Inc.—Operation Exemption—North Carolina Department of Transportation

Piedmont & Northern Railway, Inc. (P&N), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate over approximately 13.04 miles of rail line (the Line) owned by the North Carolina Department of Transportation (NCDOT), a noncarrier,[1] between Mt. Holly (milepost SFC 11.39) and Gastonia (milepost SFC 23.0), including the Belmont spur between Mt. Holly (milepost SFC 13.6/SFF 0.13) and Belmont (milepost SFF 1.56), in Gaston County, N.C.[2] Operations will be pursuant to a License and Operating Agreement (Agreement) dated July 23, 2010, which has an initial 5-year term and may be renewed 3 times for additional 5-year terms.[3]

This transaction is related to the verified notice of exemption filed in FD 35403, *Patriot Rail, LLC—Continuance in Control Exemption—Piedmont & Northern Railway,* in which Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp., jointly filed a verified notice of exemption to continue in control of P&N, upon P&N's becoming a Class III rail carrier.

The transaction is scheduled to be consummated on or after September 18, 2010 (30 days after the supplements to the notice of exemption were filed). The notice was filed on August 12, 2010, but the Agreement and supplements were filed on August 19, 2010. Therefore, August 19, 2010, will be considered the official filing date and the basis for all due dates.

P&N certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues 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 for stay must be filed no later than September 10, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to FD 35402, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 30, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–22052 Filed 9–2–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Aronco Leasing Company

(Waiver Petition Docket Number FRA–2010–0120)

The Aronco Leasing Company (Aronco), a private passenger car operator based in Helendale, California, seeks a waiver of compliance from the Safety Glazing Standards of 49 CFR 223.15 *Requirements for existing passenger cars.* Specifically, Aronco has petitioned FRA for a waiver for private railroad passenger car *Tioga Pass,* which was built for the Canadian National Railroad in 1959. The Petitioner operates this car in charter and excursion service on Amtrak and other railroads.

Aronco states that passenger car *Tioga Pass* is primarily equipped with double pane laminated safety glass, with the exception of seven windows in which the outer panes are glazed with ¼" polycarbonate. Aronco states that in 4 years of operating the car in charter service, there have been no incidents of broken windows, and no injuries have occurred to passengers or crew due to broken glass. Aronco additionally states the *Tioga Pass* is always operated with a fully qualified car operator, and is equipped with a fully accessible emergency tool locker.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0120) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the

[1] The Line was acquired from CSX Transportation, Inc. (CSXT), in 1991, after CSXT consummated the Line's abandonment.

[2] P&N states that it intends to interchange traffic with CSXT and Norfolk Southern Railway Company.

[3] P&N is reminded that once it obtains Board authorization to provide common carrier rail service over the Line, the common carrier obligation continues, notwithstanding any term of the parties' agreement, unless and until the Board grants discontinuance authority. 49 U.S.C. 10903; *Chic. & N. W. Transp. Co.* v. *Kalo Brick & Tile Co.,* 450 U.S. 311, 320 (1981); *Pittsburg & Shawmut R.R.—Aban. Exemption—in Armstrong & Jefferson Counties, Pa.,* AB 976X, slip op. at 1 (STB served Sept. 15, 2005).

document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Page 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on August 30, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22004 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

(Waiver Petition Docket Number FRA–2010–0125)

The Union Pacific Railroad Company (UP) seeks a waiver of compliance with certain requirements of 49 CFR Part 232—*Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of Train Devices,* CFR Part 229—*Railroad Locomotive Safety Standards,* and CFR Part 215—*Railroad Freight Car Safety Standards.* Specifically, UP seeks relief to permit trains received at the U.S./Mexico border at El Paso, Texas, from the Ferrocarriles Nacionales de Mexico (FXE) to move from the interchange point without performing the regulatory tests and inspections specified in Part 215, § 229.21, and § 232.205(a)(1), at that location.

UP proposes moving the trains from the FXE interchange point at the International Yard on the Lordsburg subdivision to the UP's Dallas St. yard, a distance of 2.8 miles, without the need to comply with the requirements of those parts of the CFR as noted above. A Class III brake test under § 232.211 would be performed prior to departing the International Yard.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0125) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Page 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on August 30, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22003 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

City of St. Matthews, Kentucky

(Waiver Petition Docket Number FRA–2010–0135)

The City of St. Matthews, KY (City), and CSX Transportation, Inc. (CSX) jointly seek a temporary waiver of compliance from certain provisions of the Use of Locomotive Horns at Highway-Rail Grade Crossings, 49 CFR Part 222. The City intends to establish a Pre-Rule Quiet Zone that it had previously continued under the provisions of 49 CFR 222.41(c)(1). The City is seeking a waiver for the requirement to construct and complete a Pre-Rule Quiet Zone by June 24, 2010, as required by 49 CFR 222.41(c)(2) and for an extension of such date to September 1, 2011. In addition, the City, CSX and the City of Richlawn, KY (Richlawn), seek a temporary waiver from provisions of 49 CFR 222.41(c) so that a single public highway-rail grade crossing in Richlawn, that meets the definition of a Pre-Rule Quiet Zone, but the required notices or other actions have not been submitted, could be included in St. Matthews' Pre-Rule Quiet Zone.

There are 5 crossings in the existing City's Pre-Rule Quiet Zone extending from Chenoweth Lane (MP T5.43) to Thierman Lane (MP T6.12) on the CSX Louisville Division, Louisville-Cincinnati Subdivision. All of the crossings are equipped with flashing lights and gates, constant warning time train detection circuitry and power-out indicators. Two of these crossings will be treated with Supplementary Safety Measures (SSM) as follows: 1 crossing with gates and non-traversable curb medians and 1 crossing with four-quadrant gates. One of the SSMs has been installed (gates and non-traversable curb medians on Thierman Lane) and the other (four-quadrant gates on Chenoweth Lane) will be completed within the October 2011 to April 2012 timeframe and hopefully sooner.

The City notes that there is a pre-existing Alternative Safety Measure (ASM) consisting of an 80-foot non-traversable curb median on the southern approach of Chenoweth Lane. The City has committed to implement several interim measures to improve crossing safety until the installation of the four-quadrant gate system at Chenoweth Lane is completed. The City will install 30 feet of non-traversable curb median on the north approach of the Chenoweth Lane crossing. Law enforcement officers will be present during the morning and evening rush hours at varying times and locations to issue citations to motorists and pedestrians that illegally cross the tracks. The City will also include crossing safety information in its quarterly newsletter. The City requests that the existing Pre-Rule Quiet Zone be allowed to continue until September 1, 2011, by which time it is hoped that the four-quadrant gate system will have been completed.

The City states that it has had its pre-rule quiet zone since 1974, and that its residents and others have become accustomed to its existence. It asserts that the proposed extension would not pose any additional risk to public health or safety. The City also notes that it has worked diligently since the Final Rule was released in 2005, to take the necessary steps to retain its pre-rule quiet zone. This includes the retaining of a consulting firm to assist with the project and to ensure compliance with all regulatory requirements. Throughout the process, the City and CSX have worked diligently and cooperatively to implement this project. The City and CSX entered into a Preliminary Engineering agreement during the summer of 2008, for the design and cost estimate of the four-quadrant gate system at Chenoweth Lane.

CSX requested that the City provide the necessary exit gate timing for the system and recommended that it be obtained from the Kentucky Transportation Cabinet. Unfortunately, confusion on how to obtain this information resulted in CSX not receiving the timing information in sufficient time to enable the installation of the system prior to June 24, 2010. The City terminated its Pre-Rule Quiet Zone on June 1, 2010, as it was not able to complete the necessary improvements prior to the deadline date. It since has learned that it could have asked for a waiver to have the deadline extended and is now asking that the Pre-Rule Quiet Zone be reinstated pending completion of the improvements necessary for the establishment of the quiet zone. The City and CSX are requesting that the June 24, 2010 deadline be extended to September 1, 2011, so that the Pre-Rule Quiet Zone can remain active.

The City, CSX and Richlawn also petition that the public highway-rail grade crossing on Hubbards Lane (MP T6.38) in Richlawn be included in the City's Pre-Rule Quiet Zone. Train horns have not been routinely sounded by trains approaching Hubbards Lane crossing for more than 30 years and therefore meets the definition of a Pre-Rule Quiet Zone in 49 CFR 222.9. However, due to either a clerical or administrative error, this crossing was never included in the City's Pre-Rule Quiet Zone or in a separate Pre-Rule Quiet Zone. A SSM consisting of gates with a non-traversable curb median will be installed by September 15, 2010. The City states that its calculation indicates that the addition of Hubbards Lane with its SSM, results in a Quiet Zone Risk Index (QZRI) for the 6 crossing quiet zones (the 5 existing crossings in the City's Pre-Rule Quiet Zone plus Hubbards Lane) that would be less than the Risk Index With Horns (RIWH). Even though this would enable the Pre-Rule Quiet Zone to be established without the planned installation of the four-quadrant gate system at Chenoweth, the City is committed to its installation. The City, CSX and Richlawn request that the pre-existing restrictions on the routine sounding of the train horn by trains that are approaching the public crossings on the CSX rail line from Chenoweth Lane to Hubbards Lane be re-instated.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0135) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the 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).

Issued in Washington, DC on August 30, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22005 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-use Assurance Williamson County Regional Airport, Marion, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is giving notice that the Illinois Department of Transportation, Division of Highways, is requesting a portion of the airport (3.349 acres, a portion of Area A and Tract 13) as "right-of-way" for the improvement along Route 13 and at the intersection of Route 13 and Route 148. The above-mentioned land is not needed for aeronautical use, as shown on the Airport Layout Plan. There are no impacts to the airport by allowing the airport to dispose of the property. Area A was purchased without federal funds in 1946 and Tract 13 was purchased in 1957 through Grant 9–11–0066105. In accordance with section 47107(h) of

title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose. The release of the land in fee simple title, to Illinois Department of Transportation will be used as right-of-way along Route 13 and at the intersection of Route 13 and Route 148.

DATES: *Effective Date:* The FAA intends to authorize the airport to dispose of the subject airport property 30 days from the date of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Gary D. Wilson, Program Manager, 2300 E. Devon Avenue, Des Plaines, IL 60018. Telephone Number 847–294–7631/FAX Number 847–294–7046. Documents reflecting this FAP action may be reviewed at this same location or at Williamson County Regional Airport, Marion, Illinois.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Williamson County, Marion, Illinois, and describes as follows:

Description of Parcels Area A and Tract 13 Being Released (3.349 acres)

The south half (S ½) of the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of Section eight (8), Township nine (9) South, Range two (2) East of the third Principal Meridian, situated in the County of Williamson, in the State of Illinois.

The North half of the Southwest fourth of the Southwest Quarter of Section eight (8), Township Nine (9) South, Range two (2) East of the third Principal Meridian, except three (3) acres lying in the Northwest corner thereof, said exception being more particularly described as follows: Beginning at the Northwest corner of the above described North half of the Southwest fourth of the Southwest quarter of Section eight (8), Township nine (9) South, Range two (2) East of the third Principal Meridian, thence running East four hundred twenty (420) feet; thence South Three Hundred Fifteen (315) feet; thence West four hundred twenty (420) feet; thence North three hundred fifteen (315) feet to the place of beginning, situated in the County of Williamson, in the State of Illinois.

And

The Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section eight (8), Township Nine (9) South, Range two (2) East of the third Principal Meridian, situated in the County of Williamson, in the State of Illinois.

And

That certain frontage road of 50 foot width running through the Williamson County Airport Authority Business Park as shown by a survey recorded October 1, 1986 at Misc. book 184, page 616, Williamson County, Illinois, situated in the County of Williamson and State of Illinois.

And

Lots 1, 3, 4, 5 and 9 in Williamson County Airport Business Park, as shown by a Survey Recorded October 1, 1986 at Misc. Book 184, page 616, in Williamson County, Illinois, situated in the County of Williamson and the State of Illinois.

Approval does not constitute a commitment by the FAA to financially assist in the sale of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. The disposition of proceeds from the sale of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

Issued in Des Plaines, Illinois on August 18, 2010.

Chad Oliver,

Acting Manager, Chicago Airports District Office FAA, Great Lakes Region.

[FR Doc. 2010–21922 Filed 9–2–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Comment Request for the Financial Literacy and Education Commission on the Draft National Strategy, Entitled National Strategy for Financial Literacy 2010

AGENCY: Department of the Treasury.

ACTION: Request for comment.

SUMMARY: In 2003 Congress established the Financial Literacy and Education Commission (Commission) through passage of the Financial Literacy and Education Improvement Act under Title V of the Fair and Accurate Credit Transactions Act of 2003. Congress designated Treasury's Office of Financial Education to lend its expertise and provide primary support to the Commission, which is chaired by the Secretary of the Treasury. Additionally, Congress charged the Commission to "improve the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education." On behalf of the Commission, the Department of the Treasury invites public comment on the draft *National Strategy for Financial Literacy 2010.*

DATES: Comments must be received on or before September 19, 2010 to be considered.

Submission of Written Comments: Written comments should be sent by any one of the following methods:

Electronic Comments

E-mail *FLECstrategy@do.treas.gov*; or

Paper Comments

Send paper comments to the Department of the Treasury, Office of Financial Education, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

In general, the Department will make all comments available in their original format, including any business or personal information provided such as names, addresses, e-mail addresses, or telephone numbers, for public inspection and photocopying in the Department's library, Room 1428, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. You can make an appointment to inspect comments by calling (202) 622–0990. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Dubis Correal by e-mail at *ofe@do.treas.gov* or by telephone at (202) 622–5770 (not a toll free number). Additional information regarding the Commission and the Department of the Treasury's Office of Financial Education may be obtained through the Office of Financial Education's Web site at *www.treasury.gov/financialeducation.*

SUPPLEMENTARY INFORMATION: In 2006, the Commission released its first National Strategy for Financial Literacy. In July 2009, the Commission set up a new working group which undertook a comprehensive and inclusive process that included reviewing strategic documents from other nations and other agencies, as well as reaching out for input to a wide range of stakeholders in the field of financial education. The National Strategy is meant to provide a broad strategic overview for the financial literacy and education field. The working group identified five action areas—policy, education, practice, research, and coordination. The working

group's next steps will focus on implementation of the National Strategy and how different types of organizations might integrate the National Strategy into their work.

Before the draft National Strategy is finalized, the Department of the Treasury, on behalf of the Commission, seeks public comment on the draft National Strategy. Please go to *http://www.treasury.gov/financialeducation* to view the current draft National Strategy (in both English and Spanish). Comments are specifically requested on one or more of the following questions:

From your organization's perspective:

(1) Do you agree with the vision statement? Yes or no? If no, what are your suggestions?

(2) Do you agree with the mission statement? Yes or no? If no, what are your suggestions?

(3) Do you agree with the goal statements? Yes or no? If no, which goal statement(s) would you change and how?

(4) Do you agree with the objectives under each goal? Yes or no? If no, which objective(s) would you change and how?

(5) Which objectives are most relevant to your organization? What other objectives are missing?

(6) How would your organization implement the draft National Strategy? Please list three specific examples.

(7) What type of organization do you represent?

a. Public, federal government.
b. Public, state government.
c. Public, local government.
d. Not-for-profit.
e. Foundation.
f. Private/business.
g. Other (describe).

(8) Do you have any other comments on the draft National Strategy?

(9) If there is a need to contact you to discuss your comments further, what is the best way to reach you (not required)?

Please note responses should not be more than 600 characters per question.

Dated: August 26, 2010.

Rebecca H. Ewing,

Acting Executive Secretary, U.S. Department of the Treasury.

[FR Doc. 2010–21997 Filed 9–2–10; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Treasury Direct Forms.

DATES: Written comments should be received on or before October 30, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4–A, Parkersburg, WV 26106–5318, or *judi.owens@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4–A, Parkersburg, WV 26106–5318, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Treasury Direct Forms.

OMB Number: 1535–0069.

Form Number: PD F 5178, 5179, 5179–1, 5180, 5181, 5182, 5188, 5189, 5191, 5235, 5236, 5261, and 5381.

Abstract: The information is requested to issue and maintain treasury Bills, Notes, and Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 184,189.

Estimated Time per Respondent: 7.5 minutes.

Estimated Total Annual Burden Hours: 25,019.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 30, 2010.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. 2010–22126 Filed 9–2–10; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 98–52 and REG–108639–99

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 98–52, Cash or Deferred Arrangements; Nondiscrimination, and existing notice of proposed rulemaking, REG–108639–99, Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions Under Section 401(m)(§§ 1.401(k)–3(d) and 1.401(m)–3(e).

DATES: Written comments should be received on or before November 2, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice and regulation should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cash or Deferred Arrangements; Nondiscrimination (Notice 98–52), Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions Under Section 401(m)(REG–108639–9).

OMB Number: 1545–1624.

Notice Number: Notice 98–52.

Regulation Project Number: REG–108639–99.

Abstract: This notice provides guidance to plan administrators, plan sponsors, etc., regarding nondiscriminatory safe harbors with respect to Internal Revenue Code sections 401(k)(12) and 401(m)(11), as amended by the Small Business Job Protection Act of 1996. The safe harbor provisions pertain to the actual deferral percentage test and the actual contribution percentage test for cash or deferred arrangements and for defined contribution plans. To take advantage of the safe harbor provisions, plan sponsors must amend their plans to reflect the new law and must provide plan participants with an annual notice describing the benefits available under the plan.

Current Actions: There are no changes being made to the notice or the regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 60,000.

Estimated Time per Respondent: 1 hour, 20 minutes.

Estimated Total Annual Burden Hours: 80,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 27, 2010.

Gerald Shields,

Supervisory Tax Analyst.

[FR Doc. 2010–22014 Filed 9–2–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, the FDIC, and the OTS (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to revise the Consolidated Reports of Condition and Income (Call Report) for banks, the Thrift Financial Report (TFR) for savings associations, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), and the Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S), all of which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC and the agencies should modify the proposed revisions prior to giving final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before November 2, 2010.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: You should direct all written comments to: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–0081, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to "Consolidated Reports of Condition and Income (FFIEC 031 and 041)" or "Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S)," by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include reporting form number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and

Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to "Consolidated Reports of Condition and Income, 3064–0052," by any of the following methods:

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: comments@FDIC.gov.* Include "Consolidated Reports of Condition and Income, 3064–0052" in the subject line of the message.
- *Mail:* Gary A. Kuiper, (202) 898–3877, Counsel, Attn: Comments, Room F–1072, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

OTS: You may submit comments, identified by "1550–0023 (TFR: Schedule DI Revisions)," by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail address: infocollection.comments@ots.treas.gov.* Please include "1550–0023 (TFR: Schedule DI Revisions)" in the subject line of the message and include your name and telephone number in the message.
- *Fax:* (202) 906–6518.
- *Mail:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: "1550–0023 (TFR: Schedule DI Revisions)."
- *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, Attention: "1550–0023 (TFR: Schedule DI Revisions)."

Instructions: All submissions received must include the agency name and OMB Control Number for this information collection. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtm1.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the Call Report, FFIEC 002, and FFIEC 002S forms can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/ffiec_report_forms.htm*). Copies of the TFR can be obtained from the OTS 's Web site *http://www.ots.treas.gov/main.cfm?catNumber=2&catParent=0.*

OCC: Mary Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Michelle E. Shore, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Ira L. Mills, OTS Clearance Officer, 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: The agencies are proposing to revise the Call Report, the TFR, the FFIEC 002, and the FFIEC 002S, which are currently approved collections of information.

1. *Report Title:* Consolidated Reports of Condition and Income (Call Report).

Form Number: Call Report: FE IEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 1,494 national banks.

Estimated Time per Response: 50.15 burden hours.

Estimated Total Annual Burden: 299,696 burden hours.

Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 835 state member banks.

Estimated Time per Response: 55.54 burden hours.

Estimated Total Annual Burden: 185,504 burden hours.

FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 4,800 insured state nonmember banks.

Estimated Time per Response: 40.18 burden hours.

Estimated Total Annual Burden: 771,456 burden hours.

The estimated time per response for the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (*e.g.,* size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the Call Report is estimated to range from 16 to 655 hours per quarter, depending on an individual institution's circumstances.

2. *Report Title:* Thrift Financial Report (TFR).

Form Number: OTS 1313 (for savings associations).

Frequency of Response: Quarterly; Annually.

Affected Public: Business or other for-profit.

OTS:

OMB Number: 1550–0023.

Estimated Number of Respondents: 753 savings associations.

Estimated Time per Response: 37.5 burden hours.

Estimated Total Annual Burden: 179,676 burden hours.

3. *Report Titles:* Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks; Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank

Form Numbers: FFIEC 002; FFIEC 002S.

Board:

OMB Number: 7100–0032.

Frequency of Response: Quarterly.

Affected Public: U.S. branches and agencies of foreign banks.

Estimated Number of Respondents: FFIEC 002—240; FF1EC 002S—60.

Estimated Time per Response: FFIEC 002 25.07 hours; FFIEC 002S—6 hours.

Estimated Total Annual Burden: FFIEC 002—24,067 hours; FFIEC 002S—1,440 hours.

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks), 12 U.S.C. 1464 (for savings associations), and 12 U.S.C. 3105(c)(2), 1817(a), and 3102(b) (for U.S. branches and agencies of foreign banks). Except for selected data items, the call Report, the TFR, and the FFIEC 002 are not given confidential treatment. The FFIEC 002S is given confidential treatment [5 U.S.C. 552(b)(4)].

Abstracts

Call Report and TFR: Institutions submit Call Report and TFR data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report and TFR data provide the most current statistical data available for evaluating institutions' corporate applications, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. The agencies use Call Report and TFR data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report and TFR data are also used to calculate all institutions' deposit insurance and Financing Corporation assessments, national banks' semiannual assessment fees, and the OTS's assessments on savings associations.

FFIEC 002 and FFIEC 002S: On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file the FFIEC 002, which is a detailed report of condition with a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The FFIEC 002S is a supplement to the FFIEC 002 that collects information on assets and liabilities of any non-U.S. branch that is managed or controlled by a U.S. branch or agency of the foreign bank. Managed or controlled means that a majority of the responsibility for business decisions (including but not limited to decisions with regard to lending or asset management or funding or liability management) or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002S must be completed for each managed or controlled non-U.S. branch. The FFIEC 002S must be filed quarterly along with the U.S. branch or agency's FFIEC 002. The data from both reports are used for: (1) Monitoring deposit and credit transactions of U.S. residents; (2) monitoring the impact of policy changes; (3) analyzing structural issues concerning foreign bank activity in U.S. markets; (4) understanding flows of banking funds and indebtedness of developing countries in connection with data collected by the Internationa1 Monetary Fund and the Bank for International Settlements that are used in economic analysis; and (5) assisting in the supervision of U.S. offices of foreign banks. The Federal Reserve System collects and processes these reports on behalf of the OCC, the Board, and the FDIC.

Current Actions

The agencies are proposing to add two items to the schedules in the Call Report, the TFR, and the FFIEC 002 for collecting data related to deposit insurance assessments and to revise the instructions for an existing item in these schedules effective December 31, 2010.

These changes respond to amendments made to the Federal Deposit Insurance Act (FDI Act) by Section 343 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, July 21, 2010) pertaining to the insurance of transaction accounts.

In October 2008, the FDIC Board of Directors adopted the Transaction Account Guarantee (TAG) program as one of two components of a Temporary Liquidity Guarantee Program (TLGP) following a determination of systemic risk by the Secretary of the Treasury (after consultation with the President) that was supported by recommendations from the FDIC and the Board.(1) Under the TAG program the FDIC guarantees all funds held at participating insured depository institutions (beyond the maximum deposit insurance limit) in qualifying noninterest-bearing transaction accounts, which include certain interest-bearing NOW accounts.

(1) To administer the TLGP, the FDIC Board approved an interim rule on October 23, 2008, an amendment to the interim rule on November 4, 2008, and a final rule on November 21, 2008. See 73 FR 64179, October 29, 2008; 73 FR 66160, November 7, 2008; and 73 FR 72244, November 26, 2008, respectively.

The TAG program originally was set to expire on December 31, 2009, but it was extended through June 30, 2010, with certain modifications to the program, and then extended for another six months through December 31, 2010, with the possibility of an additional 12-month extension, through December 31, 2011.(2)

(2) See 74 FR 45093, September 1, 2009; 75 FR 20257, April 19, 2010; and 75 FR 36506, June 28, 2010.

Section 343 of the Dodd-Frank Act amends the FDI Act with respect to the insurance coverage of noninterest-bearing transaction accounts. These amendments take effect December 31, 2010, and require the FDIC to "fully insure the net amount that any depositor at an insured depository institution maintains in a noninterest-bearing transaction account," thereby in effect replacing the FDIC's TAG program. Section 343 includes a definition of "noninterest-bearing transaction account" that differs from the definition of this term in the FDIC's TAG program regulations.(3) In addition, the full insurance coverage of these accounts applies to all insured depository institutions, not just those institutions that elected to obtain insurance coverage for noninterest-bearing transaction accounts through the FDIC's TAG program. Under Section 343, the full insurance coverage of

noninterest-bearing transaction accounts would be in effect through December 31, 2012.

(3) As defined in Section 343, a "noninterest-bearing transaction account" is an account "(I) with respect to which interest is neither accrued nor paid; (II) on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone or other electronic media transfers, or other similar items for the purpose of making payments or transfers to third parties or others; and (III) on which the insured depository institution does not reserve the right to require advance notice of an intended withdrawal." In contrast, under the FDIC's TAG program, the term "noninterest-bearing transaction account" includes not only those accounts within the scope of Section 343 but also accounts commonly known as Interest on Lawyers Trust Accounts (or functionally equivalent accounts) and negotiable order of withdrawal accounts with interest rates no higher than 0.25 percent for which the institution at which the account is held has committed to maintain the interest rate at or below 0.25 percent.

As a result of this statutory change in deposit insurance coverage for noninterest-bearing transaction accounts, the agencies are proposing to add two items to the schedules in the Call Report, the TFR, and the FFIEC 002 in which data are collected for deposit insurance assessment purposes (Schedule RC–O, Schedule DI, and Schedule O, respectively) effective December 31, 2010. As of that report date, all insured depository institutions, including those institutions that had not elected to participate in the FDIC's TAG program, would begin to report the quarter-end amount and number of noninterest-bearing transaction accounts (as defined in the Dodd-Frank Act, not as defined in the FDIC's TAG program regulations) of more than $250,000. These data are needed in order for the FDIC to estimate the quarter-end amount of insured deposits for reserve ratio calculation purposes(4) and to determine the appropriate level of the Deposit Insurance Fund's contingent loss reserve for anticipated failures of insured depository institutions. Unless the full insurance coverage of noninterest-bearing transaction accounts under Section 343 of the Dodd-Frank Act is extended, the two proposed new items would be collected only through the December 31, 2012, report date.

(4) The Deposit Insurance Fund's reserve ratio is the fund's balance divided by estimated insured deposits.

Institutions participating in the FDIC's TAG program should note that, for purposes of determining their TAG program assessments for the fourth calendar quarter of 2010 (which will be payable on March 30, 2011), they must complete the existing TAG program data items—Call Report Schedule RC–0, Memorandum items 4.a and 4.b; TFR Schedule DI, items D1570 and D1575; or FFIEC 002 Schedule 0, Memorandum items 4.a and 4.b, as appropriate—for the final time in their reports for December 31, 2010. These items capture the average daily amount and average daily number for the quarter of qualifying noninterest-bearing transaction accounts of more than $250,000 as defined in the FDIC's TAG program regulations.(5)

(5) The reporting of these existing TAG program items as quarterly averages, rather than as quarter-end amounts, is subject to OMB approval. See 75 FR 45201, August 2, 2010.

As a result of the full insurance coverage for noninterest-bearing transaction accounts as defined in the Dodd-Frank Act effective December 31, 2010, the agencies are also proposing to revise the instructions for reporting estimated uninsured deposits in Call Report Schedule RC–O, Memorandum item 2; TFR Schedule DI, item D1210; and FFIEC 002 Schedule O, Memorandum item 2. These items are required to be completed by institutions with $1 billion or more in total assets. At present, balances in TAG program qualifying noninterest-bearing transaction accounts of more than $250,000 are treated as uninsured deposits for purposes of reporting estimated uninsured deposits because the TAG program was instituted as a component of the TLGP, which resulted from a systemic risk determination. Thus, TAG program insurance coverage and assessments are separate from the regular deposit insurance program administered by the FDIC. Under the Dodd-Frank Act, the extension of full insurance coverage to noninterest-bearing transaction accounts at all insured depository institutions falls within the FDIC's regular deposit insurance program. Therefore, in response to this statutory change in insurance coverage, the instructions for reporting estimated uninsured deposits in Call Report Schedule RC–0, Memorandum item 2; TFR Schedule DI, item D1210; and FFIEC 002 Schedule O, Memorandum item 2, would be revised to indicate that balances of more than $250,000 in noninterest-bearing transaction accounts (as defined in the Dodd-Frank Act) should be treated as insured, rather than uninsured, deposits. Unless the full insurance coverage of noninterest-bearing transaction accounts under Section 343 of the Dodd-Frank Act is extended, this instructional revision would be in effect only through the December 31, 2012, report date.

Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, 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 information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: August 24, 2010.

Stuart E. Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, August 24, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

Dated at Washington, DC, this 24th day of August, 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: August 24, 2010.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2010–21538 Filed 9–2–10; 8:45 am]

BILLING CODE 4810–33–M; 6714–01–M; 6720–01–M; 6210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–118412–10]

RIN 1545–BJ51

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Interim Final Rules, Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act.

DATES: Written comments should be received on or before November 2, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act.

OMB Number: 1545–2178.

Regulation Project Number: REG–118412–10 [RIN 1545–BJ51].

Abstract: This document contains interim final regulations implementing the rules for group health plans and health insurance coverage in the group and individual markets under provisions of the Patient Protection and Affordable Care Act regarding status as a grandfathered health plan.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 56,347,000.

Estimated Total Annual Burden Hours: 323,000 Hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 26, 2010.

Gerald Shields,

Supervisory Tax Analyst.

[FR Doc. 2010–22015 Filed 9–2–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–125592–10]

RIN 1545–BJ63

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Interim Final Rules, Affordable Care Act Internal Claims and Appeals and External review Disclosures.

DATES: Written comments should be received on or before November 2, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Affordable Care Act Internal Claims and Appeals and External review Disclosures.

OMB Number: 1545–2182.

Regulation Project Number: REG–125592–10 [RIN 1545–BJ63].

Abstract: Section 2719 of the Public Health Service Act, incorporated into Code section 9815 by section 1563(f) of the Patient Protection and Affordable Care Act, Public Law 111–148, requires group health plans and issuers of group health insurance coverage, in connection with internal appeals of claims denials, to provide claimants free of charge with any evidence relied upon in deciding the appeal that was not relied on in making the initial denial of the claim. This is a third party disclosure requirement. Individuals appealing a denial of a claim should be able to respond to any new evidence the plan or issuer relies on in the appeal, and this disclosure requirement is essential so that the claimant knows of the new evidence.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 62,000.

Estimated Total Annual Burden Hours: 150 Hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 26, 2010.

Gerald Shields,

Supervisory Tax Analyst.

[FR Doc. 2010–22016 Filed 9–2–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Report of Covered Pharmaceutical Manufacturers and Importers (Form-8947)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form-8947, Report of Covered Pharmaceutical Manufacturers and Importers.

DATES: Written comments should be received on or before November 2, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Report of Covered Pharmaceutical Manufacturers and Importers.

OMB Number: 1545–XXXX.

Form Number: Report of Covered Pharmaceutical Manufacturers and Importers Form-8947).

Abstract: Report of Covered Pharmaceutical Manufacturers and Importers allows for fee to be assessed against entities selling branded prescription drugs to specified government agencies, based in part on controlled group status and credits allowed for qualified "orphan drugs."

Current Actions: This new form is being submitted to OMB for approval and a new OMB control number.

Type of Review: New Collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time per Respondent Recordkeeping: 6 Hours, 28 minutes.

Estimated Time per Respondent Learning: 1 Hour, 17 minutes.

Estimated Time per Respondent Preparing: 1 Hour, 27 minutes.

Estimated Total Annual Burden Hours: 3,680 Hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 26, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–22017 Filed 9–2–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Geriatrics and Gerontology Advisory Committee will be held on September 14–15, 2010, in Room 250, Department of Veterans Affairs, 1575 Eye Street, NW., Washington, DC. On September 14, the session will begin at 8:30 a.m. and end at 5 p.m. On September 15, the session will begin at 8 a.m. and end at 12 noon. This meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology. The Committee assesses the capability of VA health care facilities and programs to meet the medical, psychological, and social needs of older Veterans and evaluates VA programs designated as Geriatric Research, Education, and Clinical Centers.

The meeting will feature presentations and discussions on VA's geriatrics and extended care programs, aging research activities, update on VA's geriatric workforce (to include training, recruitment and retention approaches), Veterans Health Administration (VHA) strategic planning activities in geriatrics and extended care, recent VHA efforts regarding dementia and program advances in palliative care, and performance and oversight of the VA Geriatric Research, Education, and Clinical Centers.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Mrs. Marcia Holt-Delaney, Office of Geriatrics and Extended Care (114), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Individuals who wish to attend the meeting should contact Mrs. Holt-Delaney at (202) 461–6769 or e-mail at *Marcia.Holt-Delaney@va.gov.*

Dated: August 30, 2010.

By Direction of the Secretary:

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. 2010–22018 Filed 9–2–10; 8:45 am]

BILLING CODE P

Federal Register

Friday,
September 3, 2010

Part II

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5375–N–34]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Air Force: Mr. Robert Moore, Air Force Real Property Agency, 2261 Hughes Ave., Lackland AFB, TX 78236; (210) 424–8247; GSA: Mr. Gordon Creed, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084; *Interior:* Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., Washington, DC 20240: (202) 208–5399; Navy: Mr. Albert Johnson, Director of Real Estate, Department of the Navy, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202) 685–9305; (These are not toll-free numbers).

Dated: August 26, 2010.

Mark R. Johnston,

Deputy Assistant Secretary for Special Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM—FEDERAL REGISTER REPORT FOR 09/03/2010

Suitable/Available Properties

Building

California

Facility 1
OTHB Radar Site
Tulelake CA 91634
Landholding Agency: Air Force
Property Number: 18200830012
Status: Unutilized
Comments: 7,920 sq. ft., most recent use—communications

Facility 2
OTHB Radar Site
Tulelake CA 91634
Landholding Agency: Air Force
Property Number: 18200830014
Status: Unutilized
Comments: 900 sq. ft., most recent use—veh maint shop

Facilities 3, 4
OTHB Radar Site
Tulelake CA 91634
Landholding Agency: Air Force
Property Number: 18200830015
Status: Unutilized
Comments: 4,160 sq. ft. each, most recent use—communications

Facility 1
OTHB Radar Site
Christmas Valley CA 97641
Landholding Agency: Air Force
Property Number: 18200830016
Status: Unutilized
Comments: 16,566 sq. ft., most recent use—communications

Facility 2
OTHB Radar Site
Christmas Valley CA 97641
Landholding Agency: Air Force
Property Number: 18200830017
Status: Unutilized
Comments: 900 sq. ft., most recent use—veh maint shop

Facility 4
OTHB Radar Site
Christmas Valley CA 97641
Landholding Agency: Air Force
Property Number: 18200830018

Status: Unutilized
Comments: 14,190 sq. ft., most recent use—communications

Facility 6
OTHB Radar Site
Christmas Valley CA 97641
Landholding Agency: Air Force
Property Number: 18200830019
Status: Unutilized
Comments: 14,190 sq. ft., most recent use—transmitter bldg.

Colorado

7 Bldgs.
U.S. Air Force Academy
El Paso CO 80840
Landholding Agency: Air Force
Property Number: 18201020002
Status: Unutilized
Directions: 6501, 6502, 6503, 6504, 6505, 6507, and 6508
Comments: 2,222 sq. ft. each

Bldg. 6506
US Air Force Academy
El Paso CO 80840
Landholding Agency: Air Force
Property Number: 18201020019
Status: Unutilized
Comments: 2,222 sq. ft.

Hawaii

Bldg. 849
Bellows AFS
Bellows AFS HI
Landholding Agency: Air Force
Property Number: 18200330008
Status: Unutilized
Comments: 462 sq. ft., concrete storage facility, off-site use only

Maine

Bldgs 1, 2, 3, 4
OTH–B Radar Site
Columbia Falls ME
Landholding Agency: Air Force
Property Number: 18200840009
Status: Unutilized
Comments: various sq. ft., most recent use—storage/office

New York

Bldg. 240
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340023
Status: Unutilized
Comments: 39,108 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 247
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340024
Status: Unutilized
Comments: 13,199 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 248
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340025
Status: Unutilized
Comments: 4,000 sq. ft., presence of asbestos, most recent use—Electronic Research Lab

Bldg. 302
Rome Lab
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Number: 18200340026
Status: Unutilized
Comments: 10,288 sq. ft., presence of asbestos, most recent use—communications facility

Bldg. 606
NSU Saratoga Springs
Scotia NY 12302
Landholding Agency: Navy
Property Number: 77201020019
Status: Excess
Comments: 137,409 sq. ft. on 5.76 acres; most recent use: Navy exchange and storage

South Carolina

256 Housing Units
Charleston AFB
South Side Housing
Charleston SC
Landholding Agency: Air Force
Property Number: 18200920001
Status: Excess
Comments: various sq. ft., presence of asbestos/lead paint, off-site use only

Land

Arizona

0.30 acre
Bethany Home Road
Glendale AZ 85306
Landholding Agency: GSA
Property Number: 54201030010
Status: Excess
GSA Number: 9–I–AZ–0859
Comments: 10 feet wide access road

California

Parcels L1 & L2
George AFB
Victorville CA 92394
Landholding Agency: Air Force
Property Number: 18200820034
Status: Excess
Comments: 157 acres/desert, pump-and-treat system, groundwater restrictions, AF access rights, access restrictions, environmental concerns

Parcel F–2 Right of Way
Seal Beach CA 90740
Landholding Agency: GSA
Property Number: 54201030012
Status: Surplus
GSA Number: 9–N–CA–1508–AI
Comments: 6331.62 sq. ft., encroachment

Parcel F–4 Right of Way
Seal Beach CA
Landholding Agency: GSA
Property Number: 54201030014
Status: Surplus
GSA Number: 9–N–CA–1508–AK
Comments: 126.32 sq. ft., within 3 ft. set back required by City

Missouri

Communications Site
County Road 424
Dexter Co: Stoddard MO
Landholding Agency: Air Force
Property Number: 18200710001
Status: Unutilized
Comments: 10.63 acres

Outer Marker Annex
Whiteman AFB
Knob Noster MO 65336
Landholding Agency: Air Force
Property Number: 18200940001
Status: Unutilized
Comments: 0.75 acres, most recent use—communication

Annex No. 3
Whiteman AFB
Knob Noster MO 65336
Landholding Agency: Air Force
Property Number: 18201020001
Status: Underutilized
Comments: 9 acres

North Carolina

0.14 acres
Pope AFB
Pope AFB NC
Landholding Agency: Air Force
Property Number: 18200810001
Status: Excess
Comments: most recent use—middle marker, easement for entry

Texas

0.13 acres
DYAB, Dyess AFB
Tye Co: Taylor TX 79563
Landholding Agency: Air Force
Property Number: 18200810002
Status: Unutilized
Comments: most recent use—middle marker, access limitation

Suitable/Unavailable Properties

Building

Washington

Bldg. 404/Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420002
Status: Unutilized
Comments: 1996 sq. ft., possible asbestos/lead paint, most recent use—residential

11 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420003
Status: Unutilized
Comments: 2134 sq. ft., possible asbestos/lead paint, most recent use—residential

Bldg. 297/Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420004
Status: Unutilized
Comments: 1425 sq. ft., possible asbestos/lead paint, most recent use—residential

9 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420005
Status: Unutilized
Comments: 1620 sq. ft., possible asbestos/lead paint, most recent use—residential

22 Bldgs./Geiger Heights Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420006
Status: Unutilized

Comments: 2850 sq. ft., possible asbestos/lead paint, most recent use—residential

51 Bldgs./Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420007
Status: Unutilized
Comments: 2574 sq. ft., possible asbestos/lead paint, most recent use—residential

Bldg. 402/Geiger Heights
Fairchild AFB
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420008
Status: Unutilized
Comments: 2451 sq. ft., possible asbestos/lead paint, most recent use—residential

5 Bldgs./Geiger Heights
Fairchild AFB
222, 224, 271, 295, 260
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420009
Status: Unutilized
Comments: 3043 sq. ft., possible asbestos/lead paint, most recent use—residential

5 Bldgs./Geiger Heights
Fairchild AFB
102, 183, 118, 136, 113
Spokane WA 99224
Landholding Agency: Air Force
Property Number: 18200420010
Status: Unutilized
Comments: 2599 sq. ft., possible asbestos/lead paint, most recent use—residential

Land

Hawaii

6 Parcels
Naval Station
Pearl Harbor HI 96818
Landholding Agency: Navy
Property Number: 77200840012
Status: Unutilized
Comments: various acres; encumbered by substantial improvements owned by a private navy tenant

South Dakota

Tract 133
Ellsworth AFB
Box Elder Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 18200310004
Status: Unutilized
Comments: 53.23 acres

Tract 67
Ellsworth AFB
Box Elder Co: Pennington SD 57706
Landholding Agency: Air Force
Property Number: 18200310005
Status: Unutilized
Comments: 121 acres, bentonite layer in soil, causes movement

Virginia

1 acre
Marine Corps Base
Quantico VA
Landholding Agency: Navy
Property Number: 77201020014
Status: Underutilized
Comments: land encumbered

Unsuitable Properties

Building

Alabama

5 Bldgs.
Maxwell-Gunter AFB
Maxwell AL 36112
Landholding Agency: Air Force
Property Number: 18201030001 Status: Unutilized
Directions: 28, 423, 811, 839, 1081
Reasons: Secured Area

Alaska

Bldg. 9485
Elmendorf AFB
Elmendorf AK
Landholding Agency: Air Force
Property Number: 18200730001
Status: Unutilized
Reasons: Secured Area

Bldg. 70500
Seward AFB
Seward AK 99664
Landholding Agency: Air Force
Property Number: 18200820001
Status: Unutilized
Reasons: Secured Area

Bldg. 3224
Eielson AFB
Eielson AK 99702
Landholding Agency: Air Force
Property Number: 18200820002
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 1437, 1190, 2375
Eielson AFB
Eielson AK
Landholding Agency: Air Force
Property Number: 18200830001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

5 Bldgs.
Eielson AFB
Eielson AK
Landholding Agency: Air Force
Property Number: 18200830002
Status: Unutilized
Directions: 3300, 3301, 3315, 3347, 3383
Reasons: Extensive deterioration, Secured Area

4 Bldgs.
Eielson AFB
Eielson AK
Landholding Agency: Air Force
Property Number: 18200830003
Status: Unutilized
Directions: 4040, 4332, 4333, 4480
Reasons: Secured Area, Extensive deterioration

Bldgs. 6122, 6205
Eielson AFB
Eielson AK
Landholding Agency: Air Force
Property Number: 18200830004
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 8128
Elmendorf AFB
Elmendorf AK 99506
Landholding Agency: Air Force
Property Number: 18200830005
Status: Underutilized
Reasons: Secured Area

Bldg. 7111
Elmendorf AFB
Anchorage AK
Landholding Agency: Air Force
Property Number: 18200920014
Status: Unutilized
Reasons: Secured Area

Bldgs. 615, 617, 751, 753
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18200920015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Extensive deterioration, Secured Area

Bldgs. 100, 101
Point Barrow Long Range
Radar Site
Point Barrow AK
Landholding Agency: Air Force
Property Number: 18201010001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone

Bldg. 100 and 101
Long Range Radar Site
Point Barrow AK
Landholding Agency: Air Force
Property Number: 18201020003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone

7 Bldgs.
Eareckson Air Station
Eareckson AK 99546
Landholding Agency: Air Force
Property Number: 18201020004
Status: Unutilized
Directions: 132, 152, 153, 750, 3013, 3016, and 4012
Reasons: Within airport runway clear zone, Extensive deterioration, Secured Area

Arizona

Railroad Spur
Davis-Monthan AFB
Tucson AZ 85707
Landholding Agency: Air Force
Property Number: 18200730002
Status: Excess
Reasons: Within airport runway clear zone

California

Garages 25001 thru 25100
Edwards AFB
Area A
Los Angeles CA 93524
Landholding Agency: Air Force
Property Number: 18200620003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 00275
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200730003
Status: Unutilized
Reasons: Within airport runway clear zone, Extensive deterioration, Secured Area

Bldgs. 02845, 05331, 06790
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200740001
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 07173, 07175, 07980
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200740002
Status: Unutilized
Reasons: Secured Area

Bldg. 5308
Edwards AFB
Kern CA 93523
Landholding Agency: Air Force
Property Number: 18200810003
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Facility 100
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200810004
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 1952, 1953, 1957, 1958
Vandenberg AFB
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18200820007
Status: Unutilized
Reasons: Secured Area

Bldgs. 1992, 1995
Vandenberg AFB
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18200820008
Status: Unutilized
Reasons: Secured Area

5 Bldgs.
Pt. Arena AF Station
101, 102, 104, 105, 108
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820019
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 160, 161, 166
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820020
Status: Excess
Reasons: Secured Area, Extensive deterioration

8 Bldgs.
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820021
Status: Excess
Directions: 201, 202, 203, 206, 215, 216, 217, 218
Reasons: Extensive deterioration, Secured Area

7 Bldgs.
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820022
Status: Excess
Directions: 220, 221, 222, 223, 225, 226, 228
Reasons: Secured Area, Extensive deterioration

Bldg. 408
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820023
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 601 thru 610
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820024
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 611–619
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 1820082002500
Status: Excess
Reasons: Secured Area, Extensive deterioration.

Bldgs. 620 thru 627
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820026
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 654, 655, 690
Pt. Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820027
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 300, 387
Pt. Arena Comm Annex
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820029
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 700, 707, 796, 797
Pt. Arena Comm Annex
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820030
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 748, 838
Vandenberg AFB
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18200820033
Status: Unutilized
Reasons: Secured Area

Bldgs. 1412, 2422, 3514
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18200840001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

6 Bldgs.
Beale AFB
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18200930001
Status: Unutilized
Directions: 355, 421, 1062, 1088, 1250, 1280
Reasons: Extensive deterioration

7 Bldgs.
Beale AFB
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18200930002
Status: Unutilized
Directions: 2160, 2171, 2340, 2432, 2491, 2560, 5800
Reasons: Extensive deterioration

5 Bldgs.
Edwards AFB
Los Angeles CA 93524
Landholding Agency: Air Force
Property Number: 18200940002
Status: Unutilized
Directions: 50, 5510, 7161, 7163, 7184
Reasons: Secured Area

8 Bldgs.
Vandenberg AFB
Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 18200940003
Status: Unutilized
Directions: 182, 575, 578, 580, 582, 583, 584, 589
Reasons: Secured Area, Extensive deterioration

4 Bldgs.
Vandenberg AFB
Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 18200940004
Status: Unutilized
Directions: 590, 596, 598, 599
Reasons: Secured Area, Extensive deterioration

5 Bldgs.
Vandenberg AFB
Santa Barbara CA 93437
Landholding Agency: Air Force
Property Number: 18200940005
Status: Unutilized
Directions: 708, 742, 955, 1836, 13403
Reasons: Extensive deterioration, Secured Area

14 Bldgs.
Beale AFB
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18200940006
Status: Unutilized
Directions: 4158, 3936, 3942, 3947, 4314, 4318, 4256, 4120, 4103, 3871, 3873, 3887, 3919, 4133
Reasons: Extensive deterioration

Bldgs. 4320, 800
Beale AFB
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18200940007
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.

Beale AFB
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18200940008
Status: Unutilized
Directions: 4136, 5223, 5228, 5278
Reasons: Extensive deterioration.

4 Bldgs.
Vandenberg AFB
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18201010002
Status: Unutilized
Directions: 1892, 9340, 13400, 21110
Reasons: Secured Area

Bldgs. 1154, 2459, 5114
Beale AFB
Beale CA 95903
Landholding Agency: Air Force
Property Number: 18201010004
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 591, 970, 1565
Vandenberg AFB
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18201020005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1213
Beale AFB
Beale CA 95903
Landholding Agency: Air Force
Property Number: 18201030002
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 7087
Edwards AFB
Kern CA 93524
Landholding Agency: Air Force
Property Number: 18201030003
Status: Unutilized
Reasons: Secured Area

APN–#109–20–45
1390 Limantour Dr.
Point Reyes Station CA 94956
Landholding Agency: Interior
Property Number: 61201020001
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 2533
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520005
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 13111
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520006
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 53325, 53326
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520007
Status: Excess
Reasons: Secured Area, Extensive deterioration

5 Bldgs.
Marine Corps Base
53421, 53424 thru 53427
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520008
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 61311, 61313, 61314
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520009
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 61320–61324, 61326
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520010
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 62711 thru 62717
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520011
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 4
Naval Submarine Base
Point Loma CA
Landholding Agency: Navy
Property Number: 77200520014
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 8915, 8931
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530004
Status: Excess
Reasons: Extensive deterioration

Bldgs. 11, 112
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530005
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 805
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530006
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 810 thru 823
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530007
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 851, 859, 864
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 1146
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200530009
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 1370, 1371, 1372
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200530011
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 115
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200530012
Status: Excess
Reasons: Extensive deterioration

Bldg. 1674
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530027
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 2636, 2651, 2658
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530028
Status: Excess
Reasons: Secured Area, Extensive deterioration

4 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530029
Status: Excess
Directions: 26053, 26054, 26056, 26059
Reasons: Secured Area, Extensive deterioration

Bldgs. 53333, 53334
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530030
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 53507, 53569
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530031
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 170111
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530032
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. PM4–3
Naval Base
Oxnard Co: Ventura CA 93042

Landholding Agency: Navy
Property Number: 77200530033
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 1781
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200540001
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 398, 399, 404
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200540003
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 388, 389, 390, 391
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200540004
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 16
Naval Submarine Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200540017
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2,000 ft. of flammable or explosive material

Bldg. 325
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200610001
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldgs. 1647, 1648
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610010
Status: Excess
Reasons: Extensive deterioration

Bldg. 1713
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610011
Status: Excess
Reasons: Extensive deterioration

Bldg. 220189
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610014
Status: Excess
Reasons: Extensive deterioration

Bldg. 2295
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610015
Status: Excess
Reasons: Extensive deterioration

Bldgs. 22115, 22116, 22117
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610016
Status: Excess
Reasons: Extensive deterioration

Bldg. 143
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610017
Status: Excess
Reasons: Extensive deterioration

Bldgs. 213, 243, 273
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610018
Status: Excess
Reasons: Extensive deterioration

Bldg. 303
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610019
Status: Excess
Reasons: Extensive deterioration

Bldg. 471
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610020
Status: Excess
Reasons: Extensive deterioration

Bldgs. 979, 928, 930
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610021
Status: Excess
Reasons: Extensive deterioration

Bldgs. 999, 1000
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610022
Status: Excess
Reasons: Extensive deterioration

Bldgs. 305, 353
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610023
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 358, 359, 360, 361
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610024
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 581
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610026
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. A25, A27
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610027
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 31926, 31927, 31928
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610058
Status: Excess
Reasons: Extensive deterioration

Bldg. 41326
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610059
Status: Excess
Reasons: Extensive deterioration

Bldg. 41816
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610060
Status: Excess
Reasons: Extensive deterioration

Bldgs. 1468, 1469
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630002
Status: Unutilized
Reasons: Secured Area

Bldg. 30869
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200630005
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 2–8, 3–10
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 6–11, 6–12, 6–819
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 85
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630011
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 120, 123
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630012
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 724
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630013
Status: Unutilized

Reasons: Extensive deterioration, Secured Area

Bldg. 764
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630014
Status: Unutilized
Reasons: Secured Area

Bldg. 115
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 323
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630016
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 488
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630017
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 842
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630018
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 927
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1150
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1361
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630021
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. PH546
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200640027
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. PH425
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200710001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. PM 134
Naval Base
Point Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200710023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. PH837, PH1372
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200710024
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 523107
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200710025
Status: Excess
Reasons: Extensive deterioration

6 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200710026
Status: Excess
Directions: 523112, 523113, 523114, 523115, 523116, 523117
Reasons: Extensive deterioration

6 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200710027
Status: Excess
Directions: 523122, 523123, 523124, 523125, 523126, 523127
Reasons: Extensive deterioration

6 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200710028
Status: Excess
Directions: 523132, 523133, 523134, 523135, 523136, 523137
Reasons: Extensive deterioration

6 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200710029
Status: Excess
Directions: 523142, 523143, 523144, 523145, 523146, 523147
Reasons: Extensive deterioration

Bldgs. 523156, 523157
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200710030
Status: Excess
Reasons: Extensive deterioration

Bldg. 30726
Naval Air Weapons
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200710047
Status: Excess
Reasons: Secured Area

Bldgs. PH284, PH339
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200720001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. PH805, PH1179
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200720002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. PH1207, PH1264, PH1288
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200720003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. PM 3–53, PM129, PM402
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200720004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. LP908
Naval Base
Laguna Peak
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200720005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. PM790
Naval Base
Oxnard CA 93043
Landholding Agency: Navy
Property Number: 77200720006
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 53402
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200720007
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 307
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200720009
Status: Excess
Reasons: Secured Area

Bldg. 3135
Naval Base
San Diego CA
Landholding Agency: Navy

Property Number: 77200720010
Status: Excess
Reasons: Secured Area

Bldgs. 30727, 31409
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200720011
Status: Excess
Reasons: Secured Area

Bldgs. 60142, 60158
Naval Base Coronado
San Clemente Island CA
Landholding Agency: Navy
Property Number: 77200720012
Status: Unutilized
Reasons: Extensive deterioration, Not accessible by road

Bldgs. 60160, 60162, 60164
Naval Base Coronado
San Clemente Island CA
Landholding Agency: Navy
Property Number: 77200720013
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 60203, 60210, 60211
Naval Base Coronado
San Clemente Island CA
Landholding Agency: Navy
Property Number: 77200720014
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 60214, 60215
Naval Base Coronado
San Clemente Island CA
Landholding Agency: Navy
Property Number: 77200720015
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 60227, 60243, 60250
Naval Base Coronado
San Clemente Island CA
Landholding Agency: Navy
Property Number: 77200720016
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 60313
Naval Base Coronado
San Clemente Island CA
Landholding Agency: Navy
Property Number: 77200720017
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 404
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200720032
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 3267
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200720039
Status: Unutilized
Reasons: Secured Area

Bldgs. 11090, 98033
Naval Air Weapons
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200720054
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 41314, 41362
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200720055
Status: Excess
Reasons: Extensive deterioration

Bldgs. 192, 193, 410
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200720063
Status: Excess
Reasons: Secured Area

Bldg. 415
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200730013
Status: Unutilized
Reasons: Secured Area

Bldgs. 3363, 3364
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200730014
Status: Unutilized
Reasons: Secured Area

4 Bldgs.
Naval Base
3185D, 3222, 3251, 3309
San Diego CA
Landholding Agency: Navy
Property Number: 77200730015
Status: Unutilized
Reasons: Secured Area

Portion/Bldg. T17
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200730016
Status: Underutilized
Reasons: Secured Area

Bldg. 297
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200730017
Status: Unutilized
Reasons: Secured Area

Bldgs. 13, 87
Naval Air Station
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730022
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 243
Naval Air Station
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730023
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 381
Naval Air Station
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730024
Status: Excess
Reasons: Secured Area

4 Bldgs.
Naval Air Station
493, 663, 682, 784
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730025
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 809
Naval Air Station
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730026
Status: Excess
Reasons: Secured Area

Bldg. 983
Naval Air Station
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730027
Status: Excess
Reasons: Secured Area

Bldg. 1459
Naval Air Station
Coronado Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200730028
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 334
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200730029
Status: Excess
Reasons: Secured Area

Bldgs. 124, 148
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200740002
Status: Excess
Reasons: Secured Area

Bldgs. 314, 341, 636
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200740003
Status: Excess
Reasons: Secured Area

Bldgs. 710, 802, 826
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200740004
Status: Excess
Reasons: Secured Area

Bldgs. 60139, 60180
Naval Air Station
San Clemente CA
Landholding Agency: Navy
Property Number: 77200740005
Status: Excess
Reasons: Secured Area

Bldgs. 41313, 41314
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200740006
Status: Excess
Reasons: Secured Area, Extensive deterioration

4 Bldgs.

Marine Corps Base
41359, 41362, 41365, 41366
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200740007
States: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 43976
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200740008
States: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 53440, 53831
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200740009
States: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 410365
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200740010
States: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 259
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200740015
States: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 41356
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200740017
States: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 84
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200740018
States: Excess
Reasons: Secured Area

4 Bldgs.
Marine Corps Base
41312, 53426, 53427, 53430
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200810008
States: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 2537, 2538
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200810009
States: Excess
Reasons: Extensive deterioration

Bldgs. 43286, 43287
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200810010
States: Excess
Reasons: Extensive deterioration

Bldg. 33007
Naval Air Weapons Station
China Lake CA
Landholding Agency: Navy
Property Number: 77200810011
States: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 22176, 62507, 410363
Marine Corps Base
Camp Pendleton CA
Landholding Agency: Navy
Property Number: 77200810021
States: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 25261, 41342, 41344
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200810026
States: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 105
Naval Base
Point Loma Co: San Diego CA
Landholding Agency: Navy
Property Number: 77200820005
States: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. PH1230
Naval Base
Port Hueneme CA 93043
Landholding Agency: Navy
Property Number: 77200820021
States: Unutilized
Reasons: Extensive deterioration

Bldgs. 17, 37, 130
Naval Base
San Diego CA 92136
Landholding Agency: Navy
Property Number: 77200820023
Status: Excess
Reasons: Secured Area

Bldgs. 3053, 3328
Naval Base
San Diego CA 92136
Landholding Agency: Navy
Property Number: 77200820025
Status: Excess
Reasons: Secured Area

Bldgs. 3368, 3370
Naval Base
San Diego CA 92136
Landholding Agency: Navy
Property Number: 77200820026
Status: Excess
Reasons: Secured Area

Bldgs. 3591, 3592
Naval Base
San Diego CA 92136
Landholding Agency: Navy
Property Number: 77200820027
Status: Excess
Reasons: Secured Area

Bldg. 3603
Naval Base
San Diego CA 92136
Landholding Agency: Navy
Property Number: 77200820028
Status: Excess
Reasons: Floodway, Secured Area

Bldg. PH1230
Naval Base
Port Hueneme CA 93043
Landholding Agency: Navy
Property Number: 77200820029
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. PM28
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77200820030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. PH5295, PH5297
Naval Base
Oxnard CA 93042
Landholding Agency: Navy
Property Number: 77200820031
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

4 Bldgs.
Naval Base
Oxnard CA 93042
Landholding Agency: Navy
Property Number: 77200820032
Status: Unutilized
Directions: PH5303, PH5315, PH5318, PH5319
Reasons: Secured Area, Extensive deterioration

Bldgs. PH5323, PH5329
Naval Base
Oxnard CA 93042
Landholding Agency: Navy
Property Number: 77200820033
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 60180, 60139
San Clemente Island
Naval Base
Coronado CA
Landholding Agency: Navy
Property Number: 77200830001
Status: Excess
Reasons: Secured Area

Bldg. 148
Naval Amphibious Base
Coronado CA
Landholding Agency: Navy
Property Number: 77200830002
Status: Excess
Reasons: Secured Area

Bldgs. 13, 87, 124, 243
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200830003
Status: Excess
Reasons: Secured Area

5 Bldgs.
Naval Air Station
307, 311, 314, 341, 381
North Island CA
Landholding Agency: Navy
Property Number: 77200830004

Status: Excess
Reasons: Secured Area

Bldgs. 493
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200830005
Status: Excess
Reasons: Secured Area

Bldgs. 636, 663, 682
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200830006
Status: Excess
Reasons: Secured Area

Bldgs. 710, 784
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200830007
Status: Excess
Reasons: Secured Area

Bldgs. 802, 809, 826
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200830008
Status: Excess
Reasons: Secured Area

Bldgs. 983, 1459
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200830009
Status: Excess
Reasons: Secured Area

Bldg. 33005
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200830011
Status: Excess
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 2, 10, 59
Naval Base
Point Loma CA
Landholding Agency: Navy
Property Number: 77200830012
Status: Unutilized
Reasons: Secured Area

Bldgs. 25152, 41321, 41406
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200830022
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 1391
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200830025
Status: Excess
Reasons: Extensive deterioration

Bldgs. 1211, 1213, 1214, 1216
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200830026
Status: Excess
Reasons: Extensive deterioration

Bldgs. 52654, 52655
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200830027
Status: Excess
Reasons: Extensive deterioration

Bldgs. 453, 454, 508, 509
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200840003
Status: Unutilized
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 950, 952, 994
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200840004
Status: Unutilized
Reasons: Secured Area

4 Bldgs.
Marine Corps Base
14113, 14114, 14126, 21401
Camp Pendleton CA
Landholding Agency: Navy
Property Number: 77200840010
Status: Excess
Reasons: Extensive deterioration, Secured Area

4 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200910001
Status: Excess
Directions: 41350, 51916T, 62357T, 62367
Reasons: Secured Area, Extensive deterioration

6 Bldgs.
Naval Air Station
North Island CA
Landholding Agency: Navy
Property Number: 77200910002
Status: Excess
Directions: C38, C47, C85, C93B, C101, C102
Reasons: Secured Area, Extensive deterioration

Bldgs. 78, 126
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200910003
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 3493
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200920001
Status: Unutilized
Reasons: Secured Area

Bldgs. 2245, 2513T, 5509
Marine Corps Air Station
Miramar CA
Landholding Agency: Navy
Property Number: 77200920002
Status: Excess
Reasons: Secured Area, Extensive deterioration

8 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200920003
Status: Excess
Directions: 1255, 1490, 14121, 14122, 14125, 14127, 62432, 140135
Reasons: Secured Area, Extensive deterioration

4 Bldgs.
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200920004
Status: Excess
Directions: 02702, 02703, 02704, 02705
Reasons: Secured Area, Extensive deterioration

Bldgs. PM3–4, PM153
Naval Base
Point Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200920005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

11 Bldgs.
Naval Base
San Nicholas Island Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200920006
Status: Unutilized
Directions: SNI11, 16, 22, 45, 49, 71, 72, 141, 202, 213, 229
Reasons: Secured Area, Extensive deterioration

Bldgs. PM126, 327, 327–A
Naval Base
Point Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200920007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. PH 462
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200920008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

14 Bldgs.
Naval Base
Point Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200920009
Status: Unutilized
Directions: PM4–4, 4–27, 4–30, 6–817, 37, 42, 223, 401, 733, 793, 803, 841, 842, 855
Reasons: Extensive deterioration, Secured Area

Bldgs. PH274, 462, 808, 837
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200920010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 22172
Marine Corps Base
Camp Pendleton CA 92055

Landholding Agency: Navy
Property Number: 77200920020
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. SNI258
Naval Base
San Nicolas Island CA 93043
Landholding Agency: Navy
Property Number: 77200920021
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

6 Bldgs.
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77200920022
Status: Unutilized
Directions: PM1823A&B, 1825A&B, 1827A&B
Reasons: Secured Area

9 Bldgs.
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77200920023
Status: Unutilized
Directions: PM1936, 1937, 1938, 1939, 1959, 1961, 1963, 1965, 1967
Reasons: Secured Area

Bldgs. 22172, 62432
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200920027
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 14123
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200920031
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 3302
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200920032
Status: Unutilized
Reasons: Secured Area

Bldg. 1680
Naval Base Coronado
Warner Springs CA
Landholding Agency: Navy
Property Number: 77200920033
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. PH–11
Naval Base
Port Hueneme CA 93043
Landholding Agency: Navy
Property Number: 77200920034
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 01474
Naval Air Weapons
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200930001
Status: Excess
Reasons: Secured Area

Bldgs. 2246, 2247, 5632T
Marine Corps Air Station
Miramar CA
Landholding Agency: Navy
Property Number: 77200930002
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 88
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200930014
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Structure 363
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200940001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 43257
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200940005
Status: Excess
Reasons: Extensive deterioration, Secured Area

6 Bldgs.
Marine Corps Air Station
Miramar CA
Landholding Agency: Navy
Property Number: 77200940009
Status: Excess
Directions: 9618, 9278T, 2003T, 1271T, 1272T, 2740T
Reasons: Extensive deterioration, Secured Area

Bldg. 01325
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200940010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

7 Bldgs.
Marine Corps Air Station
Miramar CA
Landholding Agency: Navy
Property Number: 77200940012
Status: Excess
Directions: 9022, 9272, 9539, 9540, 9604, 9623, 9624
Reasons: Secured Area, Extensive deterioration

Bldgs. PM4–32, PM5–24
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77201010001
Status: Unutilized
Reasons: Floodway, Secured Area

7 Bldgs.
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77201010002
Status: Unutilized
Directions: PM71, 73, 76, 77, 160, 350, 353, 384
Reasons: Floodway, Secured Area

9 Bldgs.
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77201010003
Status: Unutilized
Directions: PM555, 565, 700, 704, 737, 759, 852, 853, 855
Reasons: Floodway, Secured Area

4 Bldgs.
Naval Base
Point Mugu CA 93042
Landholding Agency: Navy
Property Number: 77201010004
Status: Unutilized
Directions: 240CA, 244CA, 246CA, 248CA
Reasons: Floodway, Secured Area, Extensive deterioration

8 Bldgs.
Naval Base
Port Hueneme CA 93043
Landholding Agency: Navy
Property Number: 77201010005
Status: Unutilized
Directions: PH827, 1206, 1207, 1374, 1375, 1376, 1527, 1528
Reasons: Floodway, Secured Area, Extensive deterioration

Bldg. X
Naval Base Coronado
San Diego CA 92135
Landholding Agency: Navy
Property Number: 77201010011
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area

Bldgs. 425, 494, 1395, 1471
Naval Base
Port Hueneme CA 93043
Landholding Agency: Navy
Property Number: 77201010012
Status: Unutilized
Reasons: Floodway, Secured Area

8 Bldgs.
Naval Base
Port Hueneme CA 93043
Landholding Agency: Navy
Property Number: 77201010013
Status: Unutilized
Directions: 827, 1206, 1207, 1374, 1375, 1376, 1527, 1528
Reasons: Floodway, Secured Area

Bldgs. 1675, 3881
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77201010018
Status: McKinney/Base Closure
Reasons: Extensive deterioration

Bldg. 4
Naval Base Coronado
San Diego CA
Landholding Agency: Navy
Property Number: 77201010019
Status: Unutilized
Reasons: Secured Area

Bldgs. X, 35, 384, 1209
Naval Base Coronado
San Diego CA
Landholding Agency: Navy

Property Number: 77201010020
Status: Underutilized
Reasons: Secured Area

Bldgs. 3550, 3551
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77201020015
Status: Unutilized
Reasons: Secured Area

Bldgs. 3053, 3135, 3591, 3592
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77201020022
Status: Excess
Reasons: Secured Area

16 Bldgs.
Naval Weapons Station
Fallbrook CA 92028
Landholding Agency: Navy
Property Number: 77201030002
Status: Unutilized
Directions: 203, 210, 216, 236, 321, 322, 323, 356, 364, 365, 366, 433, 439, 451, 452, 453
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material, Extensive deterioration

13 Bldgs.
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77201030003
Status: Unutilized
Directions: 60, 61, 64, 70, 74, 75, 238, 242, 243, 410, 423, 424, 522
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

4 Bldgs.
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77201030004
Status: Excess
Directions: 569, 1109, 1125, 98005
Reasons: Secured Area, Extensive deterioration

Bldg. 6002
Marine Corps Air Station
Miramar CA
Landholding Agency: Navy
Property Number: 77201030005
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 1609
S.E.R.E. Camp
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77201030006
Status: Underutilized
Reasons: Secured Area

Bldgs. 8006T, 8009T, 21146D
Marine Corps Air Station
Miramar CA
Landholding Agency: Navy
Property Number: 77201030015
Status: Excess
Reasons: Extensive deterioration, Secured Area

5 Bldgs.
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77201030016
Status: Excess
Directions: 15, 16, 221, 279, 838
Reasons: Secured Area

5 Structures
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77201030017
Status: Excess
Directions: 51, 845, 846, 853, 854
Reasons: Secured Area

6 Bldgs.
Marine Corps Air Station
San Diego CA
Landholding Agency: Navy
Property Number: 77201030022
Status: Excess
Directions: 2107, 7101, 8112, 9102, 9109, 9114
Reasons: Secured Area, Extensive deterioration

Colorado

Bldg. 9038
U.S. Air Force Academy
El Paso CO 80840
Landholding Agency: Air Force
Property Number: 18200920004
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 6980
U.S. Air Force Academy
El Paso CO 80840
Landholding Agency: Air Force
Property Number: 18200940009
Status: Unutilized
Reasons: Secured Area

Bldgs. 6966, 6968, 6930, 6932 USAF Academy
El Paso CO 80840
Landholding Agency: Air Force
Property Number: 18201010005
Status: Unutilized
Reasons: Secured Area

Bldg. 1413
Buckley AFB
Aurora CO
Landholding Agency: Air Force Property Number: 18201020006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

7 Bldgs.
U.S. Air Force Academy
El Paso CO 80840
Landholding Agency: Air Force
Property Number: 18201030004
Status: Unutilized
Directions: 2330, 2331, 2332, 2333, 3190, 9020, 9035
Reasons: Secured Area

District of Columbia

Bldg. 396
Naval Support Facility
Anacostia Annex DC 20373
Landholding Agency: Navy
Property Number: 77200630008
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Florida

Bldg. 82
Air Force Range
Avon Park FL 33825
Landholding Agency: Air Force
Property Number: 18200840002
Status: Unutilized
Reasons: Contamination Secured Area

Bldg. 202
Avon Park AF Range
Polk FL 33825
Landholding Agency: Air Force
Property Number: 18200930005
Status: Unutilized
Reasons: Extensive deterioration

Facility 47120
Cape Canaveral AFB
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18200940010
Status: Unutilized
Reasons: Secured Area

15 Bldgs.
Tyndall AFB
Bay FL 32403
Landholding Agency: Air Force
Property Number: 18201010006
Status: Unutilized
Directions: 129, 131, 138, 153, 156, 419, 743, 745, 1003, 1269, 1354, 1355, 1506, 6063, 6067
Reasons: Secured Area

4 Bldgs.
Cape Canaveral AFS
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18201010007
Status: Unutilized
Directions: 56621, 56629, 56632, 67901
Reasons: Secured Area

Bldgs. 1622, 60408, and 60537
Cape Canaveral AFS
Brevard FL 32925
Landholding Agency: Air Force
Property Number: 18201020007
Status: Unutilized
Reasons: Secured Area

13 Bldgs.
Tyndall AFB
Bay FL 32403
Landholding Agency: Air Force
Property Number: 18201020008
Status: Excess
Directions: B111, B113, B115, B205, B206, B501, B810, B812, B824, B842, B1027, B1257, and B8402
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 90023
Hurlburt Field
Hurlburt FL 32544
Landholding Agency: Air Force
Property Number: 18201030005
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 89002
Cape Canaveral AFS
Brevard FL 32920
Landholding Agency: Air Force
Property Number: 18201030006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. U–150
Naval Air Station

Key West Co: Monroe FL 33040
Landholding Agency: Navy
Property Number: 77200520044
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. V1221 A
Naval Air Station
Sigsbee Park
Key West Co: Monroe FL 33040
Landholding Agency: Navy
Property Number: 77200530013
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 969
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200540014
Status: Unutilized
Reasons: Secured Area

Bldgs. 1759, 1760
Naval Air Station
Jacksonville Co: Duval FL
Landholding Agency: Navy
Property Number: 77200540015
Status: Unutilized
Reasons: Secured Area

Bldg. 1917
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200540016
Status: Unutilized
Reasons: Secured Area

Bldgs. 1, 2
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540018
Status: Excess
Reasons: Extensive deterioration, Secured Area, Floodway

Bldg. 24
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540019
Status: Excess
Reasons: Secured Area, Floodway, Extensive deterioration

Bldg. 66
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540020
Status: Excess
Reasons: Extensive deterioration, Floodway, Secured Area

Bldg. 216
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540021
Status: Excess
Reasons: Secured Area, Extensive deterioration, Floodway

Bldgs. 437, 450
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540022
Status: Excess
Reasons: Secured Area, Floodway, Extensive deterioration

Bldgs. 1234, 1235
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540023
Status: Excess
Reasons: Extensive deterioration, Secured Area, Floodway

Bldg. 212
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200620011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Floodway

Bldg. 508
Naval Station
Mayport FL 32228
Landholding Agency: Navy
Property Number: 77200620035
Status: Unutilized
Reasons: Floodway, Secured Area

Bldg. 834
Naval Air Station
Pensacola Co: Escambia FL 32508
Landholding Agency: Navy
Property Number: 77200630022
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 2658
Naval Air Station
Pensacola Co: Escambia FL 32508
Landhold Agency: Navy
Property Number: 77200630023
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 3483
Naval Air Station
Pensacola Co: Escambia FL 32508
Landhold Agency: Navy
Property Number: 77200630024
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 6144
Naval Air Station
Pensacola Co: Escambia FL 32508
Landhold Agency: Navy
Property Number: 77200630025
Status: Unutilized
Reasons: Extensive deterioration

Bldg. F11
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. A225, A409
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630027
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. A515
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630028
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. A635
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630029
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. A993, A994
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. A1068
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630031
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. A4021
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630032
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 4080
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200630033
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

88 Facilities
Saufley Field
Pensacola FL 32508
Landhold Agency: Navy
Property Number: 77200740016
Status: Unutilized
Reasons: Within airport runway clear zone

Bldgs. C5, A329
Naval Air Station
Key West FL 33040
Landhold Agency: Navy
Property Number: 77200810007
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 2, 5, 24, 26
Naval Air Station
Jacksonville Co: Duval FL
Landhold Agency: Navy
Property Number: 77200820006
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 104A, 136, 159
Naval Air Station
Jacksonville Co: Duval FL 32212
Landhold Agency: Navy
Property Number: 77200820007
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

6 Bldgs.
Naval Air Station
Jacksonville Co: Duval FL 32212
Landhold Agency: Navy
Property Number: 77200820008
Status: Unutilized
Directions: 323, 324, 338, 339, 347, 348
Reasons: Extensive deterioration, Secured Area

5 Bldgs.
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200820009
Status: Unutilized
Directions: 607, 612, 614B, 674, 675
Reasons: Secured Area, Extensive deterioration

Bldgs. 820, 890
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200820010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 1756, 1937
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200820011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

14 Bldgs.
Naval Air Station
Jacksonville FL
Landholding Agency: Navy
Property Number: 77201020007
Status: Unutilized
Directions: 12, 127, 127E, 127F, 127I, 640, 640B, 640C, 640D, 640E, 640F, 1913, 1960, 1964
Reasons: Secured Area, Extensive deterioration

Georgia

6 Cabins
QSRG Grassy Pond Rec Annex
Lake Park GA 31636
Landholding Agency: Air Force
Property Number: 18200730004
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 101, 102, 103
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200810006
Status: Excess
Reasons: Extensive deterioration

Bldgs. 330, 331, 332, 333
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200810007
Status: Excess
Reasons: Extensive deterioration

Bldgs. 794, 1541
Moody AFB
Lowndes GA
Landholding Agency: Air Force
Property Number: 18200820012
Status: Unutilized
Reasons: Secured Area

Bldg. 970
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200840003
Status: Unutilized
Reasons: Secured Area

Bldg. 205
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200920005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 104, 118, 739, 742, 973
Moody AFB
Lowndes GA 31699
Landholding Agency: Air Force
Property Number: 18200920016
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 134, 804, 841, 978
Moody AFB
Moody AFB GA 31699
Landholding Agency: Air Force
Property Number: 18201010008
Status: Underutilized
Reasons: Secured Area

Bldgs. 665 and 1219
Moody AFB
Moody AFB GA 31699
Landholding Agency: Air Force
Property Number: 18201020009
Status: Underutilized
Reasons: Secured Area

7 Bldgs.
Moody AFB
Moody GA 31699
Landholding Agency: Air Force
Property Number: 18201030007
Status: Unutilized
Directions: 112, 150, 716, 719, 757, 1220, 1718
Reasons: Secured Area

Bldg. 5101
Naval Submarine Base
Kings Bay Co: Camden GA 31547
Landholding Agency: Navy
Property Number: 77200520004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Floodway

Bldg. 0038
Naval Submarine Base
Kings Bay GA 31547
Landholding Agency: Navy
Property Number: 77200620036
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

7 Bldgs.
Marine Logistics Base
Albany GA
Landholding Agency: Navy
Property Number: 77200720040
Status: Excess
Directions: 7100, 7106, 7108, 7110, 5584, 7964, 7966
Reasons: Secured Area

Guam

Bldg. 1094
AAFB Yigo
Yigo GU 96543
Landholding Agency: Air Force
Property Number: 18200830007
Status: Unutilized
Reasons: Extensive deterioration

15 Bldgs.
Andersen AFB
Yigo GU 96543
Landholding Agency: Air Force
Property Number: 18200920006
Status: Excess
Reasons: Secured Area

Bldgs. 72, 73, 74
Andersen AFB
Mount Santa Rosa GU
Landholding Agency: Air Force
Property Number: 18200920017
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 101, 102
Andersen AFB
Pots Junction GU
Landholding Agency: Air Force
Property Number: 18200920018
Status: Excess
Reasons: Extensive deterioration

Bldg. 575
Naval Base
Camp Covington
Dededo GU
Landholding Agency: Navy
Property Number: 77200920041
Status: Unutilized
Reasons: Secured Area

Hawaii

Bldg. 1815
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200730005
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 1028, 1029
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200740006
Status: Unutilized
Reasons: Secured Area

Bldgs. 1710, 1711
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200740007
Status: Unutilized
Reasons: Secured Area

Bldg. 1713
Hickam AFB
Hickam HI
Landholding Agency: Air Force
Property Number: 18200830008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 1843
Hickam AFB
Hickam HI 96853
Landholding Agency: Air Force
Property Number: 18200920019
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 1716
RPUID
Wake Island HI

Landholding Agency: Air Force
Property Number: 18201010009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 12
Kokee AFS
Waimea HI
Landholding Agency: Air Force
Property Number: 18201010010
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 501
Hickam AFB
Hickam HI
Landholding Agency: Air Force
Property Number: 18201010011
Status: Unutilized
Reasons: Secured Area

6 Bldgs.
Kaena Point Satellite
Tracking Station
Honolulu HI
Landholding Agency: Air Force
Property Number: 18201010012
Status: Excess
Directions: 16, 18, 20, 21, 32, 33
Reasons: Extensive deterioration

Bldgs. 39 and 14111
Kaena Point Satellite Tracking Station
Honolulu HI 96792
Landholding Agency: Air Force
Property Number: 18201020010
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 5378, 469
Ford Island Naval Station
Pearl Harbor HI 96860
Landholding Agency: Navy
Property Number: 77201020009
Status: Underutilized
Reasons: Secured Area

Bldg. 6477
Marine Corps Base
Kaneohe HI 96863
Landholding Agency: Navy
Property Number: 77201030023
Status: Underutilized
Reasons: Secured Area

Indiana

Bldg. 103
Grissom AFB
Peru IN 46970
Landholding Agency: Air Force
Property Number: 18200940011
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material

Bldg. 18
Grissom AFB
Peru IN 46970
Landholding Agency: Air Force
Property Number: 18201020012
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material

Kansas

27 Bldgs.
McConnell AFB
Sedgwick KS 67210
Landholding Agency: Air Force
Property Number: 18201020013
Status: Excess
Directions: 2052, 2347, 2054, 2056, 2044, 2047, 2049, 2071, 2068, 2065, 2063, 2060, 2237, 2235, 2232, 2230, 2352, 2349, 2345, 2326, 2328, 2330, 2339, 2324, 2342, 2354, and 2333
Reasons: Secured Area

Louisiana

Barksdale Middle Marker
Bossier LA 71112
Landholding Agency: Air Force
Property Number: 18200730006
Status: Excess
Reasons: Extensive deterioration

TARS Sites 1–6
Morgan City LA 70538
Landholding Agency: Air Force
Property Number: 18201020014
Status: Unutilized
Reasons: Secured Area

Bldg. 11
Naval Support Activity
New Orleans LA 70142
Landholding Agency: Navy
Property Number: 77200810027
Status: Excess
Reasons: Extensive deterioration, Secured Area

5 Bldgs.
Naval Air Station
New Orleans LA
Landholding Agency: Navy
Property Number: 77201030007
Status: Excess
Directions: 11, 12, 82, 134, 137
Reasons: Secured Area

Maine

Facilities 1, 2, 3, 4
OTH–B Site
Moscow ME 04920
Landholding Agency: Air Force
Property Number: 18200730007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material

Bldgs. B496 and 497
Bangor Internatl Airport
Bangor ME 04401
Landholding Agency: Air Force
Property Number: 18201020015
Status: Unutilized
Reasons: Secured Area

Maryland

Bldg. 2075
Naval Surface Warfare
Indian Head MD
Landholding Agency: Navy
Property Number: 77200630043
Status: Excess
Reasons: Extensive deterioration

9 Bldgs.
National Naval Medical Ctr
Bethesda MD 20889
Landholding Agency: Navy
Property Number: 77200920028
Status: Unutilized
Directions: 17, 18, 21, 49, 69, 141, 146, 150, 174
Reasons: Secured Area, Extensive deterioration

5 Bldgs.
National Naval Medical Ctr
Bethesda MD
Landholding Agency: Navy
Property Number: 77200920030
Status: Unutilized
Directions: 23, 29, 139, 176, 219
Reasons: Secured Area

Bldg. 1353
Naval Air Station
Patuxent River MD
Landholding Agency: Navy
Property Number: 77201020016
Status: Excess
Reasons: Extensive deterioration

Structure 360
Naval Air Station
Solomons MD
Landholding Agency: Navy
Property Number: 77201030008
Status: Unutilized
Reasons: Secured Area

9 Bldgs.
Naval Support Activity
Anne Arundel MD 21402
Landholding Agency: Navy
Property Number: 77201030009
Status: Excess
Directions: 90NS, 159NS, 165RL, 166NS, 236NS, 257NS, 278NS, 317NS, NA329
Reasons: Extensive deterioration

Bldg. 2033
Naval Air Station
Patuxent River MD
Landholding Agency: Navy
Property Number: 77201030010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. C139
Naval Support Facility
Annapolis MD
Landholding Agency: Navy
Property Number: 77201030018
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. C236, C235, C234, C67
Naval Support Facility
Annapolis MD
Landholding Agency: Navy
Property Number: 77201030019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. C140, C141, C142, C72
Naval Support Facility
Annapolis MD
Landholding Agency: Navy
Property Number: 77201030020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. C201–C213, C215
Naval Support Facility
Annapolis MD
Landholding Agency: Navy
Property Number: 77201030021
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Massachusetts

Albano House
Minute Man Natl Hist Park
Concord MA 01742
Landholding Agency: Interior
Property Number: 61201020013

Status: Unutilized
Reasons: Extensive deterioration

Mississippi

Bldg. 9
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610039
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 22, 27, 41
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610040
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 108, 181, 183
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610041
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 201
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610042
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 270, 270A–1, 270A–2
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610043
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 375, 420
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610044
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 95, 96
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200720046
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Within airport runway clear zone

Bldg. 167
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200720047
Status: Unutilized
Reasons: Secured Area

Bldgs. 212, 228
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200720048
Status: Unutilized
Reasons: Secured Area

Bldgs. 266, 267
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200720049
Status: Unutilized
Reasons: Secured Area

Bldgs. 351, 445
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200720050
Status: Unutilized
Reasons: Secured Area

Bldgs. 182, 183
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200810014
Status: Unutilized
Reasons: Secured Area

Bldgs. 222, 230, 326
Naval Air Station
Meridian MS 39309
Landholding Agency: Navy
Property Number: 77200810015
Status: Unutilized
Reasons: Secured Area

Montana

Bldgs. 1600, 1601
Malmstrom AFB
Cascade MT 59402
Landholding Agency: Air Force
Property Number: 18200920020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Nebraska

Bldgs. 163, 402, 554
Offutt AFB
Offutt NE 68113
Landholding Agency: Air Force
Property Number: 18201030008
Status: Excess
Reasons: Secured Area

Nevada

Bldg. 33400
Ely
Ely NV 89301
Landholding Agency: Air Force
Property Number: 18200820014
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

3 Bldgs.
Nevada Test Site
23–790, 06–CP50, 26–2107
Mercury Co: Nye NV 89023
Landholding Agency: Navy
Property Number: 77200510025
Status: Excess
Reasons: Other—contamination, Secured Area

Units 501–521
Naval Air Station
Fallon NV
Landholding Agency: Navy
Property Number: 77200710017
Status: Excess
Reasons: Secured Area

4 Bldgs.
Naval Air Station
Fallon NV 89496
Landholding Agency: Navy
Property Number: 77201020017
Status: Underutilized
Directions: 305, 306, 310, and 319
Reasons: Extensive deterioration

New Hampshire

Bldg. 152
Pease Internatl Tradeport
Newington NH 03803
Landholding Agency: Air Force
Property Number: 18200920007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 16
Pease Internatl Tradeport
Newington NH 03803
Landholding Agency: Air Force
Property Number: 18200930006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material

5 Structures
Portsmouth Naval Shipyard
Portsmouth NH
Landholding Agency: Navy
Property Number: 77201010027
Status: Excess
Directions: Berths 15–16, 15, 176, 202
Reasons: Secured Area

New Jersey

Bldgs. 2609, 2611
Joint Base
McGuire NJ
Landholding Agency: Air Force
Property Number: 18201010013
Status: Unutilized
Reasons: Extensive deterioration

5 Bldgs.
Joint Base McGuire-Dix-Lakehurst
Trenton NJ 08641
Landholding Agency: Air Force
Property Number: 18201020016
Status: Unutilized
Directions: 1827, 1925, 3424, 3446, and 3449
Reasons: Extensive deterioration, Secured Area

3 Tracts
Delaware Water Nat'l Rec. Area
Montague Co: Sussex NJ 07827
Landholding Agency: Interior
Property Number: 61201020002
Status: Unutilized
Directions: Nos. 10839–5, 11233, and 11400
Reasons: Extensive deterioration

8 Tracts
Delaware Water Gap Nat'l Rec. Area
Walpack NJ 07881
Landholding Agency: Interior
Property Number: 61201020003
Status: Unutilized
Directions: Nos. 7055–1, 7107–1, 7613, 7820–2, 8201, 8215–1, and 8215–2
Reasons: Extensive deterioration

Tract 603–1
Delaware Water Gap Nat'l Rec. Area
Pahaquarry Co: Warren NJ 07825
Landholding Agency: Interior
Property Number: 61201020004
Status: Unutilized
Reasons: Extensive deterioration

Tract 10208

Delaware Water Gap Nat'l Rec. Area
Sandyston Co: Sussex NJ 07826
Landholding Agency: Interior
Property Number: 61201020005
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 544
Naval Weapons Station
Colts Neck NJ 07722
Landholding Agency: Navy
Property Number: 77201020018
Status: Unutilized
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material, Secured Area

New Mexico

Bldg. 1016
Kirtland AFB
Bernalillo NM 87117
Landholding Agency: Air Force
Property Number: 18200730008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Within 2000 ft. of flammable or explosive material

Bldgs. 40, 841
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200820016
Status: Underutilized
Reasons: Secured Area

Bldgs. 436, 437
Kirtland AFB
Bernalillo NM 87117
Landholding Agency: Air Force
Property Number: 18200820017
Status: Underutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 20612, 29071, 37505
Kirtland AFB
Bernalillo NM 87117
Landholding Agency: Air Force
Property Number: 18200830010
Status: Unutilized
Reasons: Secured Area

Bldgs. 88, 89
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200830020
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldgs. 312, 322
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200830021
Status: Unutilized
Reasons: Secured Area

Bldg. 569
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200830022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. 807, 833
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200830023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 1245
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200830024
Status: Unutilized
Reasons: Secured Area

5 Bldgs.
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200840004
Status: Unutilized
Directions: 1201, 1202, 1203, 1205, 1207
Reasons: Secured Area

5 Bldgs.
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200920008
Status: Unutilized
Directions: 71, 1187, 1200, 1284, 1285
Reasons: Secured Area

6 Bldgs.
Holloman AFB
Holloman AFB NM
Landholding Agency: Air Force
Property Number: 18200930007
Status: Unutilized
Directions: 920, 921, 922, 923, 924, 930
Reasons: Secured Area

Bldgs. 1113, 1127
Holloman AFB
Holloman AFB NM
Landholding Agency: Air Force
Property Number: 18200930008
Status: Unutilized
Reasons: Secured Area

Bldg. 30143
Kirtland AFB
Bernalillo NM 87117
Landholding Agency: Air Force
Property Number: 18200930009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration, Secured Area

Bldg. 1267, 1620
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18200940013
Status: Unutilized
Reasons: Secured Area

Bldgs. 214, 851, 1199
Holloman AFB
Holloman AFB NM 88330
Landholding Agency: Air Force
Property Number: 18201010014
Status: Underutilized
Reasons: Secured Area

Bldg. 865
Holloman AFB
Otero NM 88330
Landholding Agency: Air Force
Property Number: 18201030009
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. N–212
Naval Surface Warfare Center
White Sands NM
Landholding Agency: Navy
Property Number: 77201030012
Status: Excess
Reasons: Secured Area

North Carolina

Bldg. 82
Marine Corps Air Station
Cherry Point Co: Craven NC 28533
Landholding Agency: Navy
Property Number: 77200510009
Status: Underutilized
Reasons: Secured Area

Bldg. 4314
Marine Corps Air Station
Cherry Point Co: Craven NC 28533
Landholding Agency: Navy
Property Number: 77200510010
Status: Underutilized
Reasons: Secured Area

Bldg. 124
Marine Corps Air Station
Cherry Point Co: Craven NC 28533
Landholding Agency: Navy
Property Number: 77200510023
Status: Underutilized
Reasons: Secured Area

Bldgs. 73, 95, 1018
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620003
Status: Unutilized
Reasons: Secured Area

Bldg. 499
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620038
Status: Unutilized
Reasons: Secured Area

Bldgs. 3177, 3885
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620039
Status: Unutilized
Reasons: Secured Area

Bldg. 4473
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620040
Status: Unutilized
Reasons: Secured Area

Bldg. 4523
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620041
Status: Unutilized
Reasons: Secured Area

North Dakota

Bldgs. 1612, 1741
Grand Forks AFB
Grand Forks ND 58205
Landholding Agency: Air Force
Property Number: 18200720023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Oklahoma

Bldg. 193
Vance AFB
Vance OK 73705
Landholding Agency: Air Force
Property Number: 18201010015
Status: Excess
Reasons: Secured Area

Oregon

Bldg. 1001
ANG Base
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18200820018
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Painted Hills Quarter
37375 Bear Creek Rd.
Mitchell Co: Wheeler OR 97750
Landholding Agency: Interior
Property Number: 61201020006
Status: Unutilized
Reasons: Extensive deterioration

Pennsylvania

9 Tracts
Delaware Water Gap Nat'l Rec. Area
Dingmans Ferry Co: Pike PA 18328
Landholding Agency: Interior
Property Number: 61201020007
Status: Unutilized
Directions: Nos. 1077, 8548, 8548–#51,10139, 10552, 10964, 11329, 11904, and 12104
Reasons: Extensive deterioration

3 Bldgs.
Delaware Water Gap Nat'l Rec. Area
Middle Smithfield Co: Monroe PA 18301
Landholding Agency: Interior
Property Number: 61201020008
Status: Unutilized
Directions: Bldg Nos. 919, 1359, and 1522
Reasons: Extensive deterioration

Tract 7300
Delaware Water Gap Nat'l Rec. Area
Bushkill Co: Pike PA 18324
Landholding Agency: Interior
Property Number: 61201020009
Status: Unutilized
Reasons: Extensive deterioration, Floodway

3 Tracts
Delaware Water Gap Nat'l Rec. Area
Milford Co: Pike PA 18337
Landholding Agency: Interior
Property Number: 61201020010
Status: Unutilized
Directions: Nos. 12415, 12424, and 12848
Reasons: Extensive deterioration, Floodway

Bldgs. 13, 90, 93, 97
Naval Support Activity
Philadelphia PA 19111
Landholding Agency: Navy
Property Number: 77200820012
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 431, 483
Naval Support Activity
Philadelphia PA 19111
Landholding Agency: Navy
Property Number: 77200820013
Status: Excess
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material

Bldgs. 530, 534, 567, 585
Naval Support Activity
Philadelphia PA 19111
Landholding Agency: Navy
Property Number: 77200820014
Status: Excess
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material

Bldgs. 618, 743
Naval Support Activity
Philadelphia PA 19111
Landholding Agency: Navy
Property Number: 77200820015
Status: Excess
Reasons: Extensive deterioration

Bldg. 37
Naval Support Activity
Philadelphia PA
Landholding Agency: Navy
Property Number: 77200930009
Status: Excess
Reasons: Secured Area

Bldgs. 619, 636, 662, 947
Naval Business Center
Philadelphia PA 19112
Landholding Agency: Navy
Property Number: 77200930010
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material

Bldgs. 47, 531, 1070
Naval Support Activity
Mechanicsburg PA
Landholding Agency: Navy
Property Number: 77200930018
Status: Excess
Reasons: Extensive deterioration

Rhode Island

Bldg. 305CP
Naval Station
Newport RI 02841
Landholding Agency: Navy
Property Number: 77200820004
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 1A–CC
Naval Station
Newport RI 02841
Landholding Agency: Navy
Property Number: 77200820022
Status: Excess
Reasons: Secured Area

Bldg. 164
Naval Station
Newport RI 02841
Landholding Agency: Navy
Property Number: 77200820036
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Floodway, Secured Area

Bldgs. 348, 85CHI
Naval Station
Newport RI
Landholding Agency: Navy
Property Number: 77200820043
Status: Unutilized
Reasons: Secured Area

Facility 670
Naval Station
Harbor Island
Newport RI 02841
Landholding Agency: Navy
Property Number: 77200820044
Status: Excess
Reasons: Secured Area, Extensive deterioration

South Carolina

Bldgs. 19, 20, 23
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200730009
Status: Underutilized
Reasons: Secured Area

Bldgs. 27, 28, 29
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200730010
Status: Underutilized
Reasons: Secured Area

Bldgs. 30, 39
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200730011
Status: Underutilized
Reasons: Secured Area

8 Bldgs.
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200920021
Status: Unutilized
Directions: B14, B22, B31, B116, B218, B232, B343, B3403
Reasons: Secured Area

Bldg. B1626
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200930010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

10 Bldgs.
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200940014
Status: Unutilized
Directions: B16, B34, B122, B219, B220, B221, B403, B418, B428, B430
Reasons: Secured Area

5 Bldgs.
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18200940015
Status: Unutilized
Directions: B800, B900, B911, B1040, B1041
Reasons: Secured Area

7 Bldgs.
Shaw AFB
Sumber SC 29152
Landholding Agency: Air Force
Property Number: 18200940016
Status: Unutilized
Directions: B1702, B1707, B1708, B1804, B1813, B1907, B5226
Reasons: Secured Area

7 Bldgs.
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201020017
Status: Unutilized

Directions: B1026, B400, B401, B1402, B1701, B1711, and B1720
Reasons: Secured Area

Bldgs. B40006 and B40009
Shaw AFB
Wedgefield SC 29168
Landholding Agency: Air Force
Property Number: 18201020018
Status: Unutilized
Reasons: Secured Area

Bldg. B411
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201030010
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1000 thru 1021
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445
Landholding Agency: Navy
Property Number: 77200440018
Status: Unutilized
Reasons: Secured Area

Bldg. 102
Marine Corps Recruit Depot
Parris Island Co: Beaufort SC 29905
Landholding Agency: Navy
Property Number: 77200530017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Floodway

21 Bldgs.
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445
Landholding Agency: Navy
Property Number: 77200620034
Status: Unutilized
Directions: 4, 167C, 174, 180, 350, 383, 400, 410, 769, 790, 823, 824, 904, 930, 930A, 953, 953A, 971, 975, 2305, 3526
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 1148
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445
Landholding Agency: Navy
Property Number: 77200630044
Status: Excess
Reasons: Extensive deterioration

Bldg. 200
Marine Corps Recruit Depot
Parris Island SC 29905
Landholding Agency: Navy
Property Number: 77200720018
Status: Unutilized
Reasons: Floodway, Secured Area

Bldgs. 908, 1ATX211–1ATX220
Naval Weapons Station
Goose Creek SC 29445
Landholding Agency: Navy
Property Number: 77200810029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 40, 48, 856
Naval Weapons Station
Goose Creek SC 29445
Landholding Agency: Navy
Property Number: 77200810030
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 934, 2333
Naval Weapons Station
Goose Creek SC 29445
Landholding Agency: Navy
Property Number: 77200810031
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
Naval Weapon Station
Goose Creek SC 29445
Landholding Agency: Navy
Property Number: 77201020010
Status: Unutilized
Directions: 40, 72, 81, 85A, various miscellaneous properties
Reasons: Extensive deterioration, Secured Area

South Dakota

Bldg. 2306
Ellsworth AFB
Meade SD 57706
Landholding Agency: Air Force
Property Number: 18200740008
Status: Underutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 6927
Ellsworth AFB
Meade SD 57706
Landholding Agency: Air Force
Property Number: 18200830011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Texas

Bldg. 1001
FNXC, Dyess AFB
Tye Co: Taylor TX 79563
Landholding Agency: Air Force
Property Number: 18200810008
Status: Unutilized
Reasons: Extensive deterioration

5 Bldgs.
Dyess AFB
Abilene TX 79607
Landholding Agency: Air Force
Property Number: 18200840005
Status: Unutilized
Directions: B–4003, 4120, B–4124, 4127, 4130
Reasons: Secured Area

4 Bldgs.
Dyess AFB
Abilene TX 79607
Landholding Agency: Air Force
Property Number: 18200840006
Status: Unutilized
Directions: 7225, 7226, 7227, 7313
Reasons: Secured Area

4 Bldgs.
Dyess AFB
Abilene TX 79607
Landholding Agency: Air Force
Property Number: 18200840007
Status: Unutilized
Directions: 8050, 8054, 8129, 8133
Reasons: Secured Area

5 Bldgs.
Dyess AFB
Abilene TX 79607
Landholding Agency: Air Force
Property Number: 18200840008
Status: Unutilized
Directions: B–9032, 9107, 9114, B–9140, 11900
Reasons: Secured Area

Bldg. B–4228
FNWZ Dyess AFB
Taylor TX 79607
Landholding Agency: Air Force
Property Number: 18200920009
Status: Unutilized
Reasons: Secured Area

Bldgs. B–3701, B–3702
FNWZ Dyess AFB
Pecos TX 79772
Landholding Agency: Air Force
Property Number: 18200920010
Status: Unutilized
Reasons: Secured Area

Bldgs. 1, 2, 3, 4
Tethered Aerostat Radar Site
Matagorda TX 77457
Landholding Agency: Air Force
Property Number: 18200920023
Status: Excess
Reasons: Secured Area

Bldg. 154
Goodfellow AFB
Goodfellow TX 76908
Landholding Agency: Air Force
Property Number: 18200920024
Status: Unutilized
Reasons: Secured Area

Bldg. FNXH 2001
Dyess AFB
Dyess AFB TX 79607
Landholding Agency: Air Force
Property Number: 18200930011
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

6 Bldgs.
Dyess AFB
Dyess AFB TX 79607
Landholding Agency: Air Force
Property Number: 18200930013
Status: Unutilized
Directions: FNWZ 7235, 7312, 7405, 8045, 8120, 9113
Reasons: Secured Area

4 Bldgs.
Dyess AFB
Dyess AFB TX
Landholding Agency: Air Force
Property Number: 18200940017
Status: Unutilized
Directions: FNWZ 5017, 5305, 6015, 6122
Reasons: Secured Area

Bldg. 351
Laughlin AFB
Del Rio TX 78840
Landholding Agency: Air Force
Property Number: 18201010016
Status: Unutilized
Reasons: Secured Area

Bldgs. 112, 113, 141, 741
Goodfellow AFB
Goodfellow TX 76908
Landholding Agency: Air Force
Property Number: 18201010017
Status: Excess
Reasons: Secured Area

Bldgs. 6115, 6126, 6127
Dyess AFB
Dyess TX 79607

Landholding Agency: Air Force
Property Number: 18201030011
Status: Underutilized
Reasons: Secured Area

Bldg. 1732
Naval Air Station
Corpus Christi Co: Nueces TX
Landholding Agency: Navy
Property Number: 77200540007
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 243
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640035
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1430
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640036
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1500
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640037
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 4151
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640038
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 3379, 3380
Naval Air Station
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200810023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 1414, 3190
Naval Air Station
Joint Reserve Base
Ft. Worth TX 76127
Landholding Agency: Navy
Property Number: 77200830031
Status: Unutilized
Reasons: Secured Area

Bldgs. H–A thru H–J
Naval Air Station
Corpus Christi TX 78419
Landholding Agency: Navy
Property Number: 77201010052
Status: Unutilized
Reasons: Extensive deterioration

Facility 38
Naval Air Station
Ft. Worth TX
Landholding Agency: Navy
Property Number: 77201020011
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 4151, 1809
Naval Air Station
Ft. Worth TX
Landholding Agency: Navy
Property Number: 77201020012
Status: Unutilized
Reasons: Secured Area

Bldg. 1428
Naval Air Station
Ft. Worth TX 76127
Landholding Agency: Navy
Property Number: 77201020013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Utah

5 Bldgs.
Naval Industrial Ordinance Plant
Magna UT 84044
Landholding Agency: Navy
Property Number: 77200720033
Status: Unutilized
Directions: 4D, 6A, 6C, 8C, 10B
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

4 Bldgs.
Naval Industrial Ordinance Plant
Magna UT 84044
Landholding Agency: Navy
Property Number: 77200720034
Status: Unutilized
Directions: 11, 15, 16, 19
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 22A, 22B, 22C
Naval Industrial Ordinance Plant
Magna UT 84044
Landholding Agency: Navy
Property Number: 77200720035
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 23A, 23B, 23C
Naval Industrial Ordinance Plant
Magna UT 84044
Landholding Agency: Navy
Property Number: 77200720036
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
Naval Industrial Ordinance Plant
Magna UT 84044
Landholding Agency: Navy
Property Number: 77200720037
Status: Unutilized
Directions: 33, 45B, 45C, 46D
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Virgin Islands

Plot 327
Christiansted VI
Landholding Agency: Interior
Property Number: 61201020014
Status: Unutilized
Reasons: Floodway

Virginia

12 Bldgs.
Langley AFB
Langley VA 23665
Landholding Agency: Air Force
Property Number: 18200920012
Status: Unutilized
Directions: 35, 36, 903, 905, 1013, 1020, 1033, 1050, 1066, 1067, 1069, 1075
Reasons: Floodway, Secured Area

Bldgs. 38, 52
Langley AFB
Langley VA 23665
Landholding Agency: Air Force
Property Number: 18201010018
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 52, 568, 731
Langley AFB
Langley VA 23665
Landholding Agency: Air Force
Property Number: 18201030012
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 500, 501
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200640012
Status: Excess
Reasons: Extensive deterioration

Bldg. 628
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200640013
Status: Excess
Reasons: Extensive deterioration

Bldg. 2398
Naval Station
Norfolk VA
Landholding Agency: Navy
Property Number: 77200730021
Status: Excess
Reasons: Secured Area

Bldgs. 375, 502, 502A
Naval Weapons Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200810002
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 503, 503A, 504
Naval Weapons Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200810003
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 505, 505A
Naval Weapons Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200810004
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 1213, 1979
Naval Weapons Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200810005
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 2007, 2008
Naval Weapons Station

Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200810006
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 439, 466
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200820016
Status: Excess
Reasons: Secured Area

Bldgs. 760, 761
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200820017
Status: Excess
Reasons: Secured Area

Bldgs. 1820, 1895
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200820018
Status: Excess
Reasons: Secured Area

Bldgs. 1977, 1978, 1983
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200820019
Status: Excess
Reasons: Secured Area

Bldg. CAD–RR
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200820020
Status: Excess
Reasons: Secured Area

Bldg. 3186
Naval Amphibious Base
Little Creek Co: Norfolk VA
Landholding Agency: Navy
Property Number: 77200840006
Status: Unutilized
Reasons: Secured Area

19 Ammunition Bunkers
Naval Weapon Station
Ammo Plant 1 & 2
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200840009
Status: Excess
Reasons: Extensive deterioration, Secured Area

11 Bldgs.
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200840019
Status: Excess
Directions: 10, 11, 97, 97A, 98, 472, 526, 527, 528, 528A, 1592
Reasons: Secured Area, Extensive deterioration

8 Bldgs.
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200840020
Status: Excess
Directions: 109, 110, 500A, 501A, 627, 629, 1249, 1462
Reasons: Extensive deterioration, Secured Area

5 Bldgs.
Naval Amphibious Base
Norfolk VA
Landholding Agency: Navy
Property Number: 77200840021
Status: Unutilized
Directions: 3375, 3420, 3550, 3695, 3891
Reasons: Extensive deterioration, Secured Area

6 Bldgs.
Naval Station
Norfolk VA 23511
Landholding Agency: Navy
Property Number: 77200930005
Status: Excess
Directions: FRP14, FRP15, FRP33, P17, P64, LP69
Reasons: Secured Area, Extensive deterioration

7 Bldgs.
Naval Station
Norfolk VA 23511
Landholding Agency: Navy
Property Number: 77200930007
Status: Excess
Directions: Q57, Q99, Q99A, SP83, SP85, SP85A, SP125
Reasons: Extensive deterioration, Secured Area

Bldg. LP23
Naval Station
Norfolk VA 23511
Landholding Agency: Navy
Property Number: 77200930024
Status: Excess
Reasons: Secured Area

Bldg. SDA–215
Naval Support Activity
Norfolk VA 23551
Landholding Agency: Navy
Property Number: 77201020006
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 3029, 3032, 3032A–F
Marine Corps Base
Quantico VA
Landholding Agency: Navy
Property Number: 77201030013
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 2105
Naval Station
Norfolk VA 23511
Landholding Agency: Navy
Property Number: 77201030014
Status: Excess
Reasons: Secured Area

Washington

Defense Fuel Supply Point
18 structures/21 acres
Mukilteo WA
Landholding Agency: Air Force
Property Number: 18200910001
Status: Unutilized
Reasons: Extensive deterioration

Watermaster's Office
205 N. Washington Way
George Co: Grant WA 98848
Landholding Agency: Interior
Property Number: 61201020011
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 529
Puget Sound Naval Shipyard
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77200040020
Status: Excess
Reasons: Secured Area

Bldg. 8
Naval Reserve Center
Spokane WA 99205
Landholding Agency: Navy
Property Number: 77200430025
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 10, 11
Naval Reserve Center
Spokane WA 99205
Landholding Agency: Navy
Property Number: 77200430026
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 2656–2658
Naval Air Station
Lake Hancock
Coupeville Co: Island WA 98239
Landholding Agency: Navy
Property Number: 77200430027
Status: Unutilized
Reasons: Secured Area

Bldgs. 2652, 2705
Naval Air Station
Whidbey
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440010
Status: Unutilized
Reasons: Secured Area

Bldgs. 79, 884
NAS Whidbey Island
Seaplane Base
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440011
Status: Unutilized
Reasons: Secured Area

Bldg. 121
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440012
Status: Unutilized
Reasons: Secured Area

Bldg. 419
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440013
Status: Unutilized
Reasons: Secured Area

Bldgs. 2609, 2610
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440014
Status: Unutilized
Reasons: Secured Area

Bldg. 2753
NAS Whidbey Island

Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440015
Status: Unutilized
Reasons: Secured Area

Bldg. 108
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200510015
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 351
Puget Sound Naval Shipyard
Bremerton WA 98314
Landholding Agency: Navy
Property Number: 77200530026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 1032
Naval Base
Bangor Tower Site
Silverdale WA 98315
Landholding Agency: Navy
Property Number: 77200630045
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 71
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640007
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 82, 83
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 168, 188
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 729
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 910, 921
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 407, 447
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200640014
Status: Excess
Reasons: Secured Area

Bldg. 867
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200640015
Status: Excess
Reasons: Secured Area

Bldgs. 937, 975
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200640016
Status: Excess
Reasons: Secured Area

Bldg. 1449
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640017
Status: Unutilized
Reasons: Secured Area

Bldg. 1670
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640018
Status: Unutilized
Reasons: Secured Area

Bldgs. 2007, 2801
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640019
Status: Unutilized
Reasons: Secured Area

Bldgs. 6021, 6095
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640020
Status: Unutilized
Reasons: Secured Area

Bldgs. 6606, 6661
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640021
Status: Unutilized
Reasons: Secured Area

Bldgs. 726, 727, 734
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640022
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 901, 911
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 925, 938
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640024
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 1020
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Fisher Transit Site
Easement
Jefferson WA
Landholding Agency: Navy
Property Number: 77200710015
Status: Excess
Reasons: Other—Remote Location

Bldgs. 437, 853
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200710018
Status: Unutilized
Reasons: Secured Area

Bldg. 1039
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200710019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1400, 1461
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200710020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 6026
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200710021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 6608, 6609, 6904
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200710022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 110, 116
Naval Air Station
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77200740013
Status: Excess
Reasons: Secured Area

Bldg. 839
Puget Sound Naval Shipyard
Bremerton WA 98314
Landholding Agency: Navy
Property Number: 77200740014
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 402, 403, 2634
Naval Air Station

Oak Harbor Co: Whidbey Island WA 96278
Landholding Agency: Navy
Property Number: 77200810020
Status: Excess
Reasons: Extensive deterioration

Bldg. 7658
Naval Base
Bangor WA
Landholding Agency: Navy
Property Number: 77200830017
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 986, 987
Naval Air Station
Whidbey Island
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77200840001
Status: Unutilized
Reasons: Secured Area

Bldg. 94
Naval Air Station
Whidbey Island
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77200840002
Status: Excess
Reasons: Secured Area

Bldgs. 20, 62, 2616, 2663
Naval Air Station
Whidbey Island WA
Landholding Agency: Navy
Property Number: 77200840017
Status: Excess
Reasons: Secured Area

Bldg. 113
Naval Air Station
Whidbey Island WA 98278
Landholding Agency: Navy
Property Number: 77200920017
Status: Excess
Reasons: Secured Area

6 Bldgs.
Naval Air Station
Whidbey Island WA 98278
Landholding Agency: Navy
Property Number: 77200920018
Status: Unutilized
Directions: 175, 855, 2601, 2602, 2603, 2604
Reasons: Secured Area, Extensive deterioration

Bldg. 1013
Naval Base Kitsap
Bangor WA
Landholding Agency: Navy
Property Number: 77200920019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 2660, 2661, 2662
Naval Air Station
Whidbey Island WA 98278
Landholding Agency: Navy
Property Number: 77200920047
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 130
Naval Station
Pacific Beach WA 98571
Landholding Agency: Navy
Property Number: 77200930011
Status: Excess
Reasons: Extensive deterioration

Bldg. 171
Naval Magazine
Indian Island
Port Hadock WA 98339
Landholding Agency: Navy
Property Number: 77200940003
Status: Excess
Reasons: Extensive deterioration, Secured Area

GM–1, Gold Mountain
Naval Base
Transmitter/Generator Bldg.
Kitsap WA
Landholding Agency: Navy
Property Number: 77200940004
Status: Excess
Reasons: Secured Area

Bldg. 513
Naval Base
Bremerton WA
Landholding Agency: Navy
Property Number: 77201010010
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

4 Bldgs.
Naval Base
Kitsap WA
Landholding Agency: Navy
Property Number: 77201020005
Status: Unutilized
Directions: Bldg. Nos. 499, 806, 929, and 5436
Reasons: Secured Area

Bldg. 17A
Naval Air Station
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77201020020
Status: Excess
Reasons: Extensive deterioration

5 Bldgs.
Naval Air Station
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77201020021
Status: Excess
Directions: 2506, 2744, 2745, 2746, and 2809
Reasons: Secured Area, Extensive deterioration

West Virginia

Bldgs. 102, 106, 111
Air National Guard
Martinsburg WV 25405
Landholding Agency: Air Force
Property Number: 18200920013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 101, 110
Air National Guard
Martinsburg WV 25405
Landholding Agency: Air Force
Property Number: 18200940018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Wyoming

Bldg. 00012
Cheyenne RAP
Laramie WY 82009
Landholding Agency: Air Force
Property Number: 18200730013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Eden Valley Landfill
Eden WY 82932
Landholding Agency: GSA
Property Number: 54201030015
Status: Surplus
GSA Number: 7–I–WY–551
Reasons: Contamination

Land

California

Facilities 99001 thru 99006
Pt Arena AF Station
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820028
Status: Excess
Reasons: Secured Area

7 Facilities
Pt. Arena Comm Annex
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820031
Status: Excess
Directions: 99001, 99003, 99004, 99005, 99006, 99007, 99008
Reasons: Secured Area

Facilities 99002 thru 99014
Pt. Arena Water Sys Annex
Mendocino CA 95468
Landholding Agency: Air Force
Property Number: 18200820032
Status: Excess
Reasons: Secured Area

Santa Susana Field Lab
Ventura CA 93063
Landholding Agency: GSA
Property Number: 54201030011
Status: Excess
GSA Number: 9–Z–CA–1666
Reasons: Contamination, Within 2000 ft. of flammable or explosive material, Secured Area

Parcel B–2 Right of Way
Seal Beach CA
Landholding Agency: GSA
Property Number: 54201030013
Status: Surplus
GSA Number: 9–N–CA–1508–AC
Reasons: Other—inaccessible

Trailer Space
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200520013
Status: Unutilized
Reasons: Secured Area

Parcels 1, 2, 3, 4
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630003
Status: Underutilized
Reasons: Secured Area

Parcels 11, 12, 13, 14, 15
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630004
Status: Underutilized
Reasons: Secured Area

Sand Spit

Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200720008
Status: Underutilized
Reasons: Floodway

Colorado

3 Parcels
5679, 5859, 6104
Olathe CO 81425
Landholding Agency: Interior
Property Number: 61201020012
Status: Excess
Reasons: Other—landlocked

Florida

Defense Fuel Supply Point
Lynn Haven FL 32444
Landholding Agency: Air Force
Property Number: 18200740009
Status: Excess
Reasons: Floodway

Illinois

Annex
Scolt Radio Relay
Belleville IL 62221
Landholding Agency: Air Force
Property Number: 18201020011
Status: Unutilized
Reasons: Secured Area

Indiana

1.059 acres
Grissom AFB
Peru IN 46970
Landholding Agency: Air Force
Property Number: 18200940012
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material

Approx. 0.2 acre
Naval Support Activity
Crane IN 47522
Landholding Agency: Navy
Property Number: 77200910006
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Maryland

Site A: 6.2 acres
Naval Support Activity
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201020003
Status: Underutilized
Reasons: Secured Area

Approx. 80 acres
Fort Washington
Prince George MD 20744
Landholding Agency: Navy
Property Number: 77201030011
Status: Unutilized
Reasons: Secured Area

South Carolina

Laurel Bay Tract
Marine Corps Air Station
Beaufort SC
Landholding Agency: Navy
Property Number: 77200830010
Status: Excess
Reasons: Secured Area

Texas

Rattlesnake ESS
FNWZ, Dyess AFB
Pecos TX 79772
Landholding Agency: Air Force
Property Number: 18200920011
Status: Unutilized
Reasons: Secured Area

24 acres
Tethered Aerostate Radar Site
Matagorda TX 77457
Landholding Agency: Air Force
Property Number: 18200920022
Status: Excess
Reasons: Secured Area

FNXH 99100
Dyess AFB
Dyess AFB TX 79607
Landholding Agency: Air Force
Property Number: 18200930012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material

2.43 acre/0.36 acre
Dyess AFB
Dyess AFB TX 79563
Landholding Agency: Air Force
Property Number: 18200930014
Status: Unutilized
Directions: FNXL 99104, 99108, 99110, 99112, FNXM 99102, 99103, 99108
Reasons: Within airport runway clear zone

Washington

405 sq. ft./Land
Naval Base Kitsap
Bangor WA
Landholding Agency: Navy
Property Number: 77200520060
Status: Unutilized
Reasons: Secured Area

230 sq. ft. land
Naval Magazine
Indian Island WA
Landholding Agency: Navy
Property Number: 77200620037
Status: Underutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Tabook Transit Site
Easement
Jefferson WA
Landholding Agency: Navy
Property Number: 77200710016
Status: Excess
Reasons: Other—Remote Location

900 sq. ft. land
Naval Base
Bremerton WA
Landholding Agency: Navy
Property Number: 77201020023
Status: Underutilized
Reasons: Secured Area

[FR Doc. 2010–21731 Filed 9–2–10; 8:45 am]

BILLING CODE 4210–67–P

Federal Register

Friday,
September 3, 2010

Part III

The President

Executive Order 13552—2010
Amendments to the Manual for Courts-Martial, United States

Federal Register
Vol. 75, No. 171
Friday, September 3, 2010

Presidential Documents

Title 3—

The President

Executive Order 13552 of August 31, 2010

2010 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), and in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473 of April 13, 1984, as amended, it is hereby ordered as follows:

Section 1. Parts II and IV of the Manual for Courts-Martial, United States, are amended as described in the Annex attached and made a part of this order.

Sec. 2. These amendments shall take effect 30 days from the date of this order.

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

THE WHITE HOUSE,
August 31, 2010.

Billing code 3195–W9–P

ANNEX

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) R.C.M. 1003(b)(3) is amended to read as follows:

"(3) *Fine.* Any court-martial may adjudge a fine in lieu of or in addition to forfeitures. In the case of a member of the armed forces, summary and special courts-martial may not adjudge any fine or combination of fine and forfeitures in excess of the total amount of forfeitures that may be adjudged in that case. In the case of a person serving with or accompanying an armed force in the field, a summary court-martial may not adjudge a fine in excess of two-thirds of one month of the highest rate of enlisted pay, and a special court-martial may not adjudge a fine in excess of two-thirds of one year of the highest rate of officer pay. To enforce collection, a fine may be accompanied by a provision in the sentence that, in the event the fine is not paid, the person fined shall, in addition to any period of confinement adjudged, be further confined until a fixed period considered an equivalent punishment to the fine has expired. The total period of confinement so adjudged shall not exceed the jurisdictional limitations of the court-martial;"

(b) R.C.M. 1003(c) is amended by renumbering subparagraph (4) as subparagraph (5) and adding a new subparagraph (4) to read as follows:

"(4) *Based on status as a person serving with or accompanying an armed force in the field.* In the case of a person serving with or accompanying an armed force in the field, no court-martial may adjudge forfeiture of pay and allowances, reduction in pay grade, hard labor without confinement, or a punitive separation."

(c) R.C.M. 1106(d) is amended to read as follows:

"(d) *Form and content of recommendation.*

(1) The purpose of the recommendation of the staff judge advocate or legal officer is to assist the convening authority to decide what action to take on the sentence in the exercise of command prerogative. The staff judge advocate or legal officer shall use the record of trial in the preparation of the recommendation, and may also use the personnel records of the accused or other matters in advising the convening authority whether clemency is warranted.

(2) *Form.* The recommendation of the staff judge advocate or legal officer shall be a concise written communication.

(3) *Required contents.* Except as provided in subsection (e), the staff judge advocate or legal advisor shall provide the convening authority with a copy of the report of results of the trial, setting forth the findings, sentence, and confinement credit to be applied; a copy or summary of the pretrial agreement, if any; any recommendation for clemency by the sentencing authority, made in conjunction with the announced sentence; and the staff judge advocate's concise recommendation.

(4) *Legal errors.* The staff judge advocate or legal officer is not required to examine the record for legal errors. However, when the recommendation is prepared by a staff judge advocate, the staff judge advocate shall state whether, in the staff judge advocate's opinion, corrective action on the findings or sentence should be taken when an allegation of legal error is raised in matters submitted under R.C.M. 1105 or when otherwise deemed appropriate by the staff judge advocate. The response may consist of a statement of agreement or disagreement with the matter raised by the accused. An analysis or rationale for the staff judge advocate's statement, if any, concerning legal error is not required.

(5) *Optional matters.* The recommendation of the staff judge advocate or legal officer may include, in addition to matters included under subsection (d)(3) and (4) of this rule, any additional matters deemed appropriate by the staff judge advocate or legal officer. Such matter may include matters outside the record.

(6) *Effect of error.* In case of error in the recommendation not otherwise waived under subsection (f)(6) of this rule, appropriate corrective action shall be taken by appellate authorities without returning the case for further action by a convening authority."

(d) R.C.M. 1113(d)(2)(A)(iii) is amended to read as follows:

"(iii) Periods during which the accused is in custody of civilian or foreign authorities after the convening authority, pursuant to Article 57a(b)(1), has postponed the service of a sentence to confinement."

(e) R.C.M. 1113(d)(2)(C) is amended by deleting the last two sentences, and replacing them with the following:

"No member of the armed forces, or person serving with or accompanying an armed force in the field, may be placed in confinement in immediate association with enemy prisoners or with other foreign nationals not subject to the code. The Secretary concerned may prescribe regulations governing the place and conditions of confinement."

Sec. 2. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 32, Article 108, Military Property of the United States—sale, loss, damage, destruction, or wrongful disposition, paragraph c.(1) is amended to read as follows:

"(1) Military Property. Military property is all property, real or personal, owned, held, or used by one of the armed forces of the United States. Military property is a term of art, and should not be confused with government property. The terms are not interchangeable. While all military property is government property, not all government property is military property. An item of government property is not military property unless the item in question meets the definition provided above. It is immaterial whether the property sold, disposed, destroyed, lost, or damaged had been issued to the accused, to someone else, or even issued at all. If it is proved by either direct or circumstantial evidence that items of individual issue were issued to the accused, it may be inferred, depending on all the evidence, that the damage, destruction, or loss proved was due to the neglect of the accused. Retail merchandise of service exchange stores is not military property under this article."

(b) Paragraph 44, Article 119, Manslaughter, paragraph b.(2)(d) is amended to read as follows:

"(d) That this act or omission of the accused constituted culpable negligence, or occurred while the accused was perpetrating or attempting to perpetrate an offense directly affecting the person other than burglary, sodomy, rape, rape of a child, aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child, robbery, or aggravated arson."

(c) Paragraph 46, Larceny and wrongful appropriation, the Note following paragraph b.(1)(d) is amended to read as follows:

"[Note: If the property is alleged to be military property, as defined in paragraph 46.c.(1)(h), add the following element]"

(d) Paragraph 46, Larceny and wrongful appropriation, is amended by re-lettering paragraph 46.c.(1)(h) as paragraph 46.c.(1)(i), and adding a new paragraph 46.c.(1)(h) as follows:

"(h) *Military Property.* Military property is all property, real or personal, owned, held, or used by one of the armed forces of the United States. Military property is a term of art, and should not be confused with government property. The terms are not interchangeable. While all military property is government property, not all government property is military property. An item of government property is not military property unless the item in question meets the definition provided above. Retail merchandise of service exchange stores is not military property under this article."

Changes to the Discussion accompanying the Manual for Courts-Martial, United States

(a) Paragraph (4) of the Discussion immediately after R.C.M. 202(a) is amended to read as follows:

"(4) *Limitations on jurisdiction over civilians.* Court-martial jurisdiction over civilians under the code is limited by the Constitution and other applicable laws, including as construed in judicial decisions. The exercise of jurisdiction under Article 2(a)(11) in peace time has been held unconstitutional by the Supreme Court of the United States. Before initiating court-martial proceedings against a civilian, relevant statutes, decisions, service regulations, and policy memoranda should be carefully examined."

(b) The first paragraph of the Discussion following R.C.M. 1003(b)(3) is amended to read as follows:

"A fine is in the nature of a judgment and, when ordered executed, makes the accused immediately liable to the United States for the entire amount of money specified in the sentence. A fine normally should not be adjudged against a member of the armed forces unless the accused was unjustly enriched as a result of the offense of which convicted. In the case of a civilian subject to military law, a fine, rather than a forfeiture, is the proper monetary penalty to be adjudged, regardless of whether unjust enrichment is present."

Changes to Appendix 21, Analysis of Rules for Courts-Martial

(a) Add the following to the Analysis accompanying R.C.M. 1106(d):

"*2010 Amendment:* Subsection (d) is restated in its entirety to clarify that subsections (d)(4), (d)(5) and (d)(6) were not intended to be eliminated by the 2008 Amendment.

2008 Amendment: Subsections (d)(1) and (d)(3) were modified to simplify the requirements of the staff judge advocate's or legal officer's recommendation."

Changes to Appendix 23, Analysis of Punitive Articles

(a) Add the following to the Analysis accompanying Paragraph 44, Article 119 - Manslaughter:

"b. *Elements.*

2010 Amendment: Paragraph (4) of the elements is corrected to properly reflect the 2007 Amendment, which corrected wording not included in the 2008 Amendment.

2008 Amendment: Notes were included to add an element if the person killed was a child under the age of 16 years.

e. *Maximum punishment.*

2008 Amendment: The maximum confinement for voluntary manslaughter when the person killed was a child under the age of 16 years was increased to 20 years. The maximum confinement for involuntary manslaughter when the person killed was a child under the age of 16 years was increased to 15 years."

[FR Doc. 2010–22279
Filed 9–2–10; 11:15 am]
Billing code 5000–04–C

Reader Aids

Federal Register

Vol. 75, No. 171

Friday, September 3, 2010

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

53563–53840 1
53841–54004 2
54005–54270 3

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8549 53563
Executive Orders:
13551 53837
13552 54263

7 CFR

6 53565
761 54005
762 54005
764 54005
765 54005
766 54005

10 CFR

Proposed Rules:
430 54048

12 CFR

740 53841
745 53841
Proposed Rules:
1101 54052

14 CFR

39 ..... 53843, 53846, 53849, 53851, 53855, 53857, 53859, 53861
73 53863
Proposed Rules:
39 53609
71 ..... 53876, 54057, 54058

15 CFR

730 53864
732 53864
734 53864
736 53864
738 53864
740 53864
742 53864
743 53864
744 53864
746 53864
747 53864
748 53864
750 53864
752 53864
754 53864
756 53864
758 53864
760 53864
762 53864
764 53864
766 53864
768 53864
770 53864
772 53864
774 53864
922 53567
Proposed Rules:
806 53611

17 CFR

Proposed Rules:
232 54059

18 CFR

Proposed Rules:
35 54063

20 CFR

641 53786

21 CFR

1310 53867
510 ..... 54016, 54017
520 54018
522 ..... 54017, 54018
558 54019

24 CFR

Ch. II 54020

27 CFR

Proposed Rules:
9 53877

29 CFR

Proposed Rules:
1908 54064

33 CFR

117 ..... 54023, 54024
127 54025
154 54025
155 ..... 54025, 54026
165 ..... 53572, 53574, 53870, 54026
Proposed Rules:
117 54069

38 CFR

17 54028
Proposed Rules:
5 53744
76 54069

40 CFR

52 54031
81 54031
180 ..... 53577, 53581, 53586, 54033
Proposed Rules:
51 53613
52 ..... 53613, 53883, 53892, 53907
60 53908
72 53613
78 53613
97 53613
140 53914

42 CFR

Proposed Rules:
447 54073

44 CFR

Proposed Rules:
61 54076

47 CFR

64 54040

49 CFR

107 53593
171 53593
172 53593
173 53593
176 53593
177 53593
179 53593
180 53593
544 54041

50 CFR

17 53598
20 53774
635 53871
648 53871
665 ....53606, 54044
679 ....53606, 53608, 53873, 53874, 53875

Proposed Rules:
17 53615
223 53925
300 54078
648 53939

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 511/P.L. 111–231
To authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village. (Aug. 16, 2010; 124 Stat. 2489)

H.R. 2097/P.L. 111–232
Star-Spangled Banner Commemorative Coin Act (Aug. 16, 2010; 124 Stat. 2490)

H.R. 3509/P.L. 111–233
Agricultural Credit Act of 2010 (Aug. 16, 2010; 124 Stat. 2493)

H.R. 4275/P.L. 111–234
To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the "John C. Godbold Federal Building". (Aug. 16, 2010; 124 Stat. 2494)

H.R. 5278/P.L. 111–235
To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the "President Ronald W. Reagan Post Office Building". (Aug. 16, 2010; 124 Stat. 2495)

H.R. 5395/P.L. 111–236
To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the "Paula Hawkins Post Office Building". (Aug. 16, 2010; 124 Stat. 2496)

H.R. 5552/P.L. 111–237
Firearms Excise Tax Improvement Act of 2010 (Aug. 16, 2010; 124 Stat. 2497)

Last List August 16, 2010

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.