AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

9–13–10 Monday
Vol. 75 No. 176 Sept. 13, 2010

Pages 55453–55662

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. 176

Monday, September 13, 2010

Agriculture Department
See Forest Service

Army Department
NOTICES
Intent to Grant Field of Use Exclusive License to U.S. Government-Owned Patents, 55576–55577

Coast Guard
RULES
Drawbridge Operation Regulations:
Pequonnock River, Bridgeport, CT, 55475–55477
Safety Zones:
Revolution 3 Triathlon, Lake Erie & Sandusky Bay, Cedar Point, OH, 55477–55479

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Joint Public Roundtables:
Data for Swaps and Security-Based Swaps, etc., 55575
Swap Execution Facilities and Security-Based Swap Execution Facilities, 55574–55575

Defense Department
See Army Department
NOTICES
Meetings:
National Defense University Board of Visitors, 55575–55576
Privacy Act; Systems of Records, 55576

Drug Enforcement Administration
NOTICES
Proposed Assessments of Annual Needs:
2011 List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine, 55605–55610

Employment and Training Administration
NOTICES
Affirmative Determinations Regarding Applications for Reconsideration:
TRG Insurance Solutions, LLC, Beckley, WV, 55612
Amended Certifications Regarding Eligibility to Apply for Worker Adjustment Assistance:
Bank of New York Mellon, Corporate Trust Operations Division, et al., Syracuse, NY, 55615
Dell Products LP, Parmer North Location, et al., Austin, TX, 55614
Dell Products LP, Winston–Salem Division et al., Winston–Salem, NC, 55614
DuPont Teijin Films, Florence, SC, 55613
General Motors Corp., Renaissance Center, et al., Detroit, MI, 55613–55614
IPSCO Tubulars, Inc., Camanche, IA, 55615
Negative Determinations on Reconsideration:
Hanesbrands, Inc., Galax, VA, 55615–55616

Environmental Protection Agency
RULES
National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List:
Partial Deletion of the Rocky Mountain Arsenal Federal Facility, 55479–55480
Restructuring of the Stationary Source Audit Program, 55636–55657
PROPOSED RULES
Approvals and Promulgations of Implementation Plans:
Idaho; Interstate Transport of Pollution, 55494–55503
NOTICES
Clean Water Act; Contractor Access to Confidential Business Information, 55577–55578
Meetings:
Farm, Ranch, and Rural Communities Committee, 55578

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness Directives:
Bombardier, Inc. Model DHC–8–200 and DHC–8–300 Series Airplanes, 55461–55462
Pratt & Whitney PW4000 Series Turbofan Engines, 55459–55461
Sikorsky Aircraft Corp. Model S–76A, S–76B, and S–76C Helicopters, 55453–55455
The Boeing Company Model 737–700 (IGW) Series Airplanes Equipped with Auxiliary Fuel Tanks, 55455–55459
PROPOSED RULES
Airworthiness Directives:
Eurocopter France Models SA330F, SA330G, and SA330J Helicopters, 55492–55494
NOTICES
Meetings:
Future of Aviation Advisory Committee Subcommittee on Financing, 55631–55632

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55578–55579

Federal Emergency Management Agency
RULES
Final Flood Elevation Determinations, 55480–55488
PROPOSED RULES
Flood Elevation Determinations, 55507–55529
NOTICES
Emergency Declarations:
North Carolina; Amendment No. 1, 55594
Emergency and Related Determinations:
North Carolina, 55594
Major Disaster Declarations:
Kansas; Amendment No. 1, 55595
Nebraska; Amendment No. 1, 55595
Nebraska; Amendment No. 2, 55595–55596
Texas; Amendment No. 4, 55595

Federal Motor Carrier Safety Administration
RULES
Electronic On-Board Recorders for Hours-of-Service Compliance, 55488–55491
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Transportation of Hazardous Materials, Highway Routing, 55630–55631

Federal Railroad Administration
NOTICES
Petitions for Waiver of Compliance:
Beaver Lawrence Railway Historical Society, 55633
Kansas City Southern Railroad Co., 55633–55634
Railtown 1897 State Historic Park, 55632

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55579–55582
Changes in Bank Control:
Acquisition of Shares of Banks or Bank Holding Companies, 55582

Fish and Wildlife Service
NOTICES
Comprehensive Conservation Plans and Environmental Assessments; Availability, etc.:
Little River National Wildlife Refuge, McCurtain County, OK, 55599–55600

Food and Drug Administration
NOTICES
Fee for Using Priority Review Voucher in 2011 Fiscal Year, 55589–55591

Foreign Assets Control Office
RULES
Iraq Stabilization and Insurgency Sanctions Regulations, 55463–55475
Iraqi Sanctions Regulations, 55462–55463

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Crooked Creek Reservoir Repair, White River National Forest, Eagle County, CO; Cancellation, 55539
Meetings:
Shoshone Resource Advisory Committee, 55539
Upper Rio Grande Resource Advisory Committee, 55539–55540

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals
The State of Ecosystem Services Implementation Survey, 55598–55599

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
PROPOSED RULES
National Vaccine Injury Compensation Program:
Revisions to the Vaccine Injury Table, 55503–55507
NOTICES
National Institutes of Health Statement of Organization, Functions, and Delegations of Authority, 55582–55583

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55583–55585
Family-to-Family Health Information Center Program, 55587–55589

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
PROPOSED RULES
Homeland Security Acquisition Regulation:
Revision Initiative, 55529–55538

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Housing Choice Voucher Program, 55596–55597
Owner Certification with HUD Tenant Eligibility and Rent Procedures, 55597
Public Consolidated Public Housing Certificate of Completion, 55597–55598

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau

International Trade Administration
NOTICES
Preliminary Determinations of Sales at Less Than Fair Value and Postponements of Final Determinations:
Polyvinyl Alcohol from Taiwan, 55552–55558
Preliminary Results of Antidumping Duty Administrative Reviews:
Laminated Woven Sacks from People's Republic of China, 55568–55574
Light-Walled Rectangular Pipe and Tube from Mexico, 55559–55568

International Trade Commission
NOTICES
Investigations:
Certain Flash Memory Chips and Products Containing Same, 55604–55605

Justice Department
See Drug Enforcement Administration

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

Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55612–55613

Land Management Bureau
NOTICES
Environmental Assessments; Availabiltiy:
San Luis Resource Area Geothermal Leasing, San Luis Valley, CO, 55602–55603

Meetings:
California Desert District Advisory Council, 55603
Proposed Extension of Land Withdrawal:
Montana, 55604

National Aeronautics and Space Administration
NOTICES
Meetings:
Information Technology Infrastructure Committee, 55616

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 55616–55617

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55627–55630

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Cancer Trials Support Unit Public Use Forms and Customer Satisfaction Surveys, 55586–55587
Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research, 55585
Meetings:
Center for Scientific Review, 55591–55594
National Institute of Dental and Craniofacial Research, 55592

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
New England Fishery Management Council, 55540–55541
NOAA Regional Ocean Partnership Funding Program:
FY2011 Funding Competition, 55541–55552

National Science Foundation
NOTICES
Meetings:
Advisory Committee for Biological Sciences, 55617
Meetings; Sunshine Act, 55617

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 55617–55618

Occupational Safety and Health Administration
NOTICES
Advisory Committee on Construction Safety and Health, 55610–55612

Postal Regulatory Commission
NOTICES
Meetings; Sunshine Act, 55618

Postal Service
NOTICES
Meetings; Sunshine Act, 55618

Presidential Documents
ADMINISTRATIVE ORDERS
Terrorist Attacks; Continuation of National Emergency With Respect to Certain (Notice of September 10, 2010), 55659–55661

Securities and Exchange Commission
NOTICES
Joint Public Roundtables:
Data for Swaps and Security-Based Swaps, etc., 55575
Swap Execution Facilities and Security-Based Swap Execution Facilities, 55574–55575
Self-Regulatory Organizations; Proposed Rule Changes:
NYSE Amex LLC, 55622–55623
NYSE Arca, Inc., 55621–55625
Options Clearing Corp., 55619–55621

Small Business Administration
NOTICES
Disaster Declarations:
Kansas, Amendment 1, 55619
Nebraska, Amendment 2, 55618–55619
Texas; Amendment 4, 55618
Major Disaster Declarations:
Nebraska, Amendment 1, 55619

Social Security Administration
NOTICES
Meetings:
Occupational Information Development Advisory Panel, 55625

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Medical History And Examination For Foreign Service, 55625–55626
Certifications Related to Aerial Eradication in Colombia, etc., 55626
Determinations and Certifications:
Section 7046(B) Of The 2010 Department Of State, Foreign Operations, And Related Programs Appropriations Act, 55626

Surface Transportation Board
NOTICES
Construction and Operation Exemptions:
U S Rail Corp., Brookhaven Rail Terminal, 55631

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Meetings:
Future of Aviation Advisory Committee Environment Subcommittee, 55626–55627

Treasury Department
See Foreign Assets Control Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 55634

Veterans Affairs Department
NOTICES
Meetings:
National Research Advisory Council, 55634

Separate Parts In This Issue

Part II
Environmental Protection Agency, 55636–55657

Part III
Presidential Documents, 55659–55661

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

Administrative Orders:

Notices:

Notice of September 10, 2010 55661

14 CFR

39 (4 documents) 55453, 55455, 55459, 55461

Proposed Rules:

39 55492

31 CFR

575 55462

576 55463

33 CFR

117 55475

165 55477

40 CFR

51 55636

60 55636

61 55636

63 55636

300 55479

Proposed Rules:

52 55494

42 CFR

Proposed Rules:

100 55503

44 CFR

67 55480

Proposed Rules:

67 (3 documents) 55507, 55515, 55527

48 CFR

Proposed Rules:

3001 55529

3002 55529

3003 55529

3004 55529

3005 55529

3006 55529

3009 55529

3012 55529

3018 55529

3022 55529

3023 55529

3033 55529

3035 55529

3036 55529

3042 55529

3045 55529

3052 55529

3053 55529

49 CFR

385 55488

395 55488

Rules and Regulations

Federal Register
Vol. 75, No. 176
Monday, September 13, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0609; Directorate Identifier 2008–SW–24–AD; Amendment 39–16408 AD 2010–17–16]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters. This AD requires an initial and recurring inspections of the tail rotor vertical stabilizer aft spar assembly (aft spar assembly) for a crack, loose or working fasteners, and corrosion, and, if any are found, further inspections of the vertical stabilizer forward spar assembly (forward spar assembly). Repairing or replacing any unairworthy part before further flight is also required. This AD also requires a recurring track-and-balance of the tail rotor. Finally, this AD requires installing a vertical stabilizer modification kit, which is terminating action for the requirements of the AD. This AD is prompted by 26 reports of fatigue cracks in the aft spar assembly web and outer caps. The actions specified by this AD are intended to detect and correct an unbalanced or out-of-track tail rotor, which could lead to increased vibrations, a fatigue crack, loss of a portion of the vertical stabilizer and subsequent loss of control of the helicopter.

DATES: Effective October 18, 2010.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 18, 2010.

ADDRESSES: You may get the service information identified in this AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com*.

Examining the Docket: You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://www.regulations.gov* or at the Docket Operations office, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nicholas Faust, Aviation Safety Engineer, 16 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7763; fax: (781) 238–7170.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for certain Sikorsky Model S–76A, S–76B, and S–76C helicopters was published in the **Federal Register** on June 4, 2008 (73 FR 31780). The proposed action applied to Sikorsky Model S–76A, S–76B, and S–76C helicopters with any of the following part-numbered aft spar assemblies installed:

Helicopter model	Aft spar assembly part number (P/N)
S–76A	76201–05002–114
	76201–05002–115
S–76B and S–76C	76201–05002–047
	76201–05002–048
	76201–25002–041
	76201–25002–044
	76201–25002–045
	76201–25002–046

That action proposed to require, for any spar assembly that has 1,000 or more hours time-in-service (TIS), within 30 days and thereafter at intervals not to exceed 50 hours TIS, inspecting the aft spar assembly, and if you find a crack, a loose or working fasteners, or corrosion, inspecting the forward spar assembly before further flight and replacing or repairing any unairworthy part with an airworthy part before further flight. The action also proposed to require, within 30 days and thereafter at intervals not to exceed 200 hours TIS, track-and-balance of the tail rotor. Accomplishing the tail rotor track-and-balance would involve both a pilot and mechanic. The pilot's function would be to operate the helicopter to a "light on wheels" state—almost to the point of takeoff, and the mechanic would accomplish the vibration measurements. Also, proposed was requiring, on or before December 31, 2010, installing a vertical stabilizer modification kit, P/N 76070–20562, 76070–20563, or 76070–20564, which would be terminating action for the requirements of the proposed AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received from the manufacturer.

Sikorsky states that the effectivity should also include the aircraft serial number as referenced in their Alert Service Bulletin (ASB) No. 76–55–21. Sikorsky recommends the following wording "Note All S–76 helicopter serial numbers greater than 760578 but not including helicopter serial number 762976 are not affected." Sikorsky states that "this would ease the operator burden for aircraft built after the affected population of verifying the spar part numbers to show compliance with the AD." We concur with Sikorsky's recommendation to limit the applicability to only specified serial numbered helicopters and have revised the AD accordingly. Further, we inadvertently omitted the dash numbers to the part numbers of the modification kits contained in paragraph (c) of the proposed AD; "–011" has been added to each of the part numbers in this final rule.

We have reviewed the following service information:

- Sikorsky Alert Service Bulletin (ASB) No. 76–55–20A, Revision A, dated November 11, 2003 (76–55–20A), that applies to Sikorsky Model S–76A and Model S–76C helicopters and describes procedures for a one-time inspection of the vertical stabilizer aft spar assembly for cracks, loose or working fasteners, and/or corrosion, and if necessary an inspection of the forward spar assembly.
- ASB No. 76–65–58A, Revision A, dated November 11, 2003 (76–65–58A), that applies to all Sikorsky Model S–76

serial numbered helicopters up to and including 760526 and describes procedures for an initial enhanced tail rotor balance check.

We have also reviewed ASB No. 76–55–21, dated February 9, 2006 (76–55–21), that Sikorsky references it its comment. ASB 76–55–21 applies to all Sikorsky S–76 serial numbered helicopters up to an including 760578 and 762976 and specifies the installation of a structural enhancement kit which strengthens the aft spar assembly, improves the fatigue strength capability of the vertical stabilizer, and extends the vertical stabilizer inspection. We do not reference ASB No. 76–55–21 in the compliance instructions of this AD.

This AD differs from ASB 76–55–20A and ASB 76–65–58A in that the incorporated by reference provisions described in ASB No. 76–55–20A are required for the Model S–76B helicopters as well as for the Model S–76A and Model S–76C helicopters. Also, this AD requires repetitive inspections of the aft spar assembly and the forward spar assembly, if necessary, and repetitive track-and-balance of the tail rotor, whereas the two ASBs specify only a one-time tail rotor balance check and an aft spar assembly inspection and, if necessary, a one-time forward spar assembly inspection.

After careful review of the available data, including the comment noted above, we have determined that air safety and the public interest require the adoption of the rule with the changes described previously. We have also increased the labor rate for performing the required actions from $80 to $85 per work-hour. We have determined that these changes will not significantly increase the economic burden on any operator nor increase the scope of the AD.

We estimate that this AD will affect 216 helicopters of U.S. registry. We also estimate that the inspections for a crack, a loose or working fastener, or corrosion will take approximately 7 work-hours per helicopter to accomplish. The tail rotor track-and-balance procedures and adjustments will take approximately 10 work-hours per helicopter, and installing the vertical stabilizer modification kit will take approximately 120 hours per helicopter, at an average labor rate of $85 per work hour. The vertical stabilizer modification kit will cost approximately $4,250. Based on these figures, we estimate the total cost impact of this AD on U.S. operators to be $5,214,240, assuming that, on each helicopter, 12 spar assembly inspections are done ($1,542,240), that 3 tail rotor track-and-balance procedures are done ($550,800), that no spar assembly is repaired or replaced, and that the vertical stabilizer modification kit is installed.

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2010–17–16 Sikorsky Aircraft Corporation: Amendment 39–16408; Docket No. FAA–2008–0609; Directorate Identifier 2008–SW–24–AD.

Applicability: Model S–76A, S–76B, and S–76C helicopters, with serial numbers 76005 through 760578, inclusive, and serial number 762976, with any of the following part-numbered vertical stabilizer aft spar assemblies having 1,000 or more hours time-in-service (TIS) installed, certificated in any category.

Helicopter model	Vertical stabilizer aft spar assembly part number
S–76A	76201–05002–114
	76201–05002–115
S–76B and S–76C	76201–05002–047
	76201–05002–048
	76201–25002–041
	76201–25002–044
	76201–25002–045
	76201–25002–046

Compliance: Required as indicated.

To detect and correct an unbalanced or out-of-track tail rotor, which could lead to increased vibrations, a fatigue crack, loss of a portion of the vertical stabilizer, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 30 days, unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS, inspect the vertical stabilizer aft spar assembly (aft spar assembly) for a crack, a loose or working fastener, or corrosion in accordance with the Accomplishment Instructions, paragraph 3.A., in Sikorsky Alert Service Bulletin (ASB) No. 76–55–20A, Revision A, dated November 11, 2003 (No. 76–55–20A). For purposes of this AD, ASB No. 76–55–20A is applicable to Model S–76B helicopters as well as Model S–76A and S–76C helicopters.

(1) If a crack, a loose or working fastener, or corrosion is found in the aft spar assembly, before further flight:

(i) Repair or replace any unairworthy parts and

(ii) Inspect the vertical stabilizer forward spar assembly (forward spar assembly) for a crack, a loose or working fastener, or corrosion in accordance with the Accomplishment Instructions, paragraph 3.B., in ASB No. 76–55–20A. Contacting the manufacturer is not required by this AD.

(2) If a crack, a loose or working fastener, or corrosion is found in the forward spar assembly, repair in accordance with the applicable maintenance manual or replace with airworthy parts before further flight.

(b) Within 30 days, unless accomplished previously, and thereafter at intervals not to

exceed 200 hours TIS, track-and-balance the tail rotor in accordance with the Accomplishment Instructions, paragraph 3.A., in ASB No. 76–65–58A, Revision A, dated November 11, 2003.

Note 1: Although the ASB specifies only an initial inspection of the aft spar assembly and a track and balance of the tail rotor, this AD requires inspecting the aft spar assembly and track-and-balancing the tail rotor repetitively.

Note 2: The track-and-balancing of the tail rotor that is required by paragraph (b) of this AD involves both a pilot and mechanic. The pilot's function is to operate the helicopter to a "light on wheels" state—almost to the point of takeoff. The mechanic is needed to accomplish the vibration measurements.

(c) On or before December 31, 2010, install a vertical stabilizer modification kit, part number 76070–20562–011, 76070–20563–011, or 76070–20564–011. Installing the vertical stabilizer modification kit is terminating action for the requirements of this AD.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Boston Aircraft Certification Office, Engine and Propeller Directorate, ATTN: Nicholas Faust, Aviation Safety Engineer, FAA, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7763, fax (781) 238–7170, for information about previously approved alternative methods of compliance.

(e) The Joint Aircraft System/Component (JASC) Code 5530 is: Vertical Stabilizer.

(f) The inspections and track-and-balance shall be done in accordance with the specified portions of Sikorsky Alert Service Bulletin No. 76–55–20A, Revision A, dated November 11, 2003, and Sikorsky Alert Service Bulletin No. 76–65–58A, Revision A, dated November 11, 2003. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(g) This amendment becomes effective on October 18, 2010.

Issued in Fort Worth, Texas, on August 12, 2010.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–21596 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0037; Directorate Identifier 2009–NM–240–AD; Amendment 39–16431; AD 2010–19–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–700 (IGW) Series Airplanes Equipped With Auxiliary Fuel Tanks Installed in Accordance With Configuration 3 of Supplemental Type Certificate ST00936NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model 737–700 (IGW) series airplanes. This AD requires deactivation or modification of PATS Aircraft, LLC, auxiliary fuel tanks. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective October 18, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of October 18, 2010.

ADDRESSES: For service information identified in this AD, contact DeCrane Aerospace, PATS Aircraft Systems, 21652 Nanticoke Avenue, Georgetown, Delaware 19947; telephone 302–253–6157; fax 302–855–0153; e-mail *giuseppecoppola@decraneaerospace.com;* Internet *http://www.decraneaerospace.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Mazdak Hobbi, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7330; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Model 737–700 (IGW) series airplanes. That NPRM was published in the **Federal Register** on February 12, 2010 (75 FR 6865). That NPRM proposed to require deactivation or modification of PATS Aircraft, LLC, auxiliary fuel tanks.

Comments

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

Request To Clarify Configuration 3 Airplanes Affected

Global Jet asks what has changed regarding Configuration 3 airplanes affected by the actions in the NPRM. Global Jet states that it received an email from the FAA in May 2008, which specified that no further action was required for its Configuration 3 airplanes. Global Jet asks why it was in compliance with SFAR 88 last year and is not in compliance this year, although the airplane configuration has not changed in any way. PATS recommends clarifying that although Configuration 3 airplanes were excluded from AD 2008–22–01, those airplanes are not in compliance with the SFAR 88 regulations.

We acknowledge the commenters' concerns and provide the following clarification. We have received new information from a secondary review of Configuration 3 airplanes and have determined that they are not compliant with the SFAR 88 regulations. Therefore, those airplanes are included in the applicability of this AD. We have made no change to the AD in this regard.

Request To Refer to AD 2008–22–01

PATS Aircraft, LLC (PATS), asks that we include a reference to the requirements of AD 2008–22–01, amendment 39–15696 (73 FR 62872, October 22, 2008), in the NPRM. PATS states that the information specified in the NPRM corrects an error in AD 2008–22–01, which incorrectly identifies Configuration 3 airplanes as being

compliant with Special Federal Aviation Regulation No. 88 (SFAR 88) requirements. PATS notes that this is incorrect since Configuration 3 airplanes require incorporation of DeCrane Aerospace 737–700 IGW Service Bulletins ST00936NY–D–28–SB–001_K, dated August 25, 2008; and ST00936NY–D–28–SB–021_K, dated January 8, 2009. PATS adds that an alternative method of compliance (AMOC) was issued for AD 2008–22–01 to approve the service bulletins for Configuration 3 airplanes.

We acknowledge the commenter's concern and provide the following. The NPRM was issued, in part, to correct the error in AD 2008–22–01. That AD applies to various transport category airplanes equipped with auxiliary fuel tanks installed in accordance with certain supplemental type certificates, and requires deactivation of PATS Aircraft, LLC, auxiliary fuel tanks. AD 2008–22–01 does not require the modification specified in the subject service information; therefore, since Configuration 3 airplanes are included in the applicability of this AD, it is not necessary to reference the requirements of AD 2008–22–01. We have not changed the AD in this regard.

Request To Include Previously Issued Service Information

PATS recommends including the DeCrane/PATS service bulletins specified in Table 1 of this AD as acceptable sources of service information for accomplishing the actions specified in the NPRM. PATS states that the FAA issued an AMOC for AD 2008–22–01 approving this service information for accomplishing the actions on Model 737–700 (IGW) airplanes with STC ST00936NY–D, Configuration 3.

We agree with the commenter for the reasons provided. We have added a new paragraph (h) to this AD to give credit for using previous issues of the DeCrane/PATS service information to accomplish the specified actions.

Request To Change the Description of the Auxiliary Fuel Tanks

PATS points out that the description of the PATS auxiliary fuel tank is incorrect in the section of the NPRM titled "Supplemental Type Certificates (STCs) for PATS Aircraft, LLC, Auxiliary Fuel Tanks." PATS states that it has never designed or certified a "box-and-bladder-type" auxiliary fuel tank, and provides the following description of the PATS auxiliary fuel tank system.

PATS' typical auxiliary fuel system (AFS) consists of several interconnected auxiliary fuel cells located in the aircraft's cargo holds. The cells are constructed of aluminum alloy with double walls and mounted on longitudinal rails attached to the aircraft's frame. The inner walls serve as the fuel storage cell, and the outer walls serve as the fuel and fume-proof shroud around the cell. The two walls are separated by an open-weave honeycomb structure bonded to the walls. The cells resemble aircraft cargo containers. The individual cells are usually arranged in two groups within the forward and aft lower cargo holds. These forward and aft fuel cell groups operate independently as two separate tanks.

We infer that the commenter requests we revise the description of the STC. We agree that the description in the NPRM requires further clarification. However, that section of the preamble of the NPRM does not reappear in the final rule; therefore, no change to the final rule has been made. However, we have provided the above clarification to the section of the NPRM titled "Supplemental Type Certificates (STCs) for PATS Aircraft, LLC, Auxiliary Fuel Tanks" as suggested by PATS.

Requests To Extend Compliance Time

Boeing, Global Jet (Global Jet) Luxembourg, and Qantas Airways (Qantas) ask that the compliance time of 45 days for accomplishing the actions specified in the NPRM be extended. Boeing and Global Jet state that the impact of the proposed compliance time would be disproportionate to the risk, and add that there is insufficient capacity in the available overhaul facilities to accomplish the retrofit within 45 days after the effective date of the AD. Boeing notes that there are similar risks in other ADs and recommends using risk-analysis to determine a compliance time. Qantas states that we should permit a longer compliance time for airplanes modified in accordance with Revision G (or later) of DeCrane Aerospace 737–700 IGW Service Bulletin ST00936NY–D–28–SB–001, or ST00936NY–D–28–SB–021. Qantas suggests the compliance time be extended to 12 months after the effective date of the AD to allow accomplishing the actions during regularly scheduled maintenance.

We agree with the commenters. We have extended the compliance time specified in paragraph (g) of this AD to 6 months after the effective date of the AD to coincide with the extension given in AMOCs for AD 2008–22–01. We find that extending the compliance time to 6 months will not adversely affect safety, and will allow the modification to be performed during regularly scheduled maintenance at a base where special equipment and trained maintenance personnel will be available if necessary.

Request To Clarify Levels of Configuration

PATS asks that we clarify the configuration levels on Configuration 3 airplanes and recommends the section of the NPRM titled "Supplemental Type Certificates (STCs) for PATS Aircraft, LLC, Auxiliary Fuel Tanks" be changed to include those levels.

We provide the following clarification. Configuration 3 airplanes include 3–A, 3–B, 3–C, 3–D, 3–E, 3–F, 3–G, 3–H, 3–J, 3–K, 3–M, 3–N, 3–P, 3–R, 3–S, 3–T, 3–U, 3–V, and 3–W, as listed on STC ST00936NY–D. However, since the section of the NPRM referenced by the commenter does not reappear in the final rule, no change to this AD is necessary in this regard.

Request To Increase Cost Estimate in Costs of Compliance Section of This AD

Boeing asks that we change the Costs of Compliance section of the NPRM. Boeing states that the economic impact specified in the NPRM fails to account for the total economic costs of compliance. Boeing estimates the costs to be approximately $300,000 for service bulletin parts kits and $120,000 in labor (estimated 1,600 work hours of labor at $75/hour), plus other unplanned costs for air transportation while these airplanes are out of service for the modification. Boeing adds that the cost per airplane would exceed $400,000 even in the most optimistic and efficient modification scenarios.

We agree that the number of work hours required for the modification is higher than our estimate. The estimate in the NPRM only included the costs for deactivation of the auxiliary fuel tanks. Therefore, the cost impact information, below, has been revised to include the cost for accomplishing the modification. The economic analysis, however, is limited only to the cost of actions actually required by the rule. It does not consider the costs of "on-condition" actions (*e.g.,* "repair, if necessary") because, regardless of AD direction, those actions would be required to correct an unsafe condition identified in an airplane and ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. We have made no further change to this final rule regarding this issue.

Explanation of Change to AD

We have changed paragraph (g)(1) of this AD to clarify the terminology regarding approval of the deactivation procedures.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 11 airplanes of U.S. registry.

We estimate that it will take about 250 work-hours per product to comply with the deactivation of the auxiliary fuel tanks. The average labor rate is $85 per work-hour. Required parts will cost about $10,000 per product. Based on these figures, we estimate the cost of the deactivation to the U.S. operators to be $343,750, or $31,250 per product.

We estimate that it will take between 90 and 650 work-hours per product, depending on airplane configuration, to comply with the modification of the auxiliary fuel system. The average labor rate is $85 per work-hour. Required parts will cost between $182,505 and $228,131 per product. Based on these figures, we estimate the cost of the modification to U.S. operators to be between $2,091,705 and $3,117,191, or between $190,155 and $283,381 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–19–03 The Boeing Company: Amendment 39–16431. Docket No. FAA–2010–0037; Directorate Identifier 2009–NM–240–AD.

Effective Date

(a) This airworthiness directive (AD) is effective October 18, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 737–700 (IGW) series airplanes, certificated in any category; equipped with auxiliary fuel tanks installed in accordance with Configuration 3 of Supplemental Type Certificate ST00936NY.

Subject

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

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Prevent Usage of Auxiliary Fuel Tanks or Modify Auxiliary Fuel System

(g) Within 6 months after the effective date of this AD: Accomplish the requirements specified in paragraph (g)(1) or (g)(2) of this AD.

(1) Deactivate the auxiliary fuel tanks, in accordance with a deactivation procedure approved by the Manager, New York Aircraft Certification Office (ACO). For any deactivation procedure to be approved, it must be shown that following deactivation, any auxiliary tank component that remains on the airplane must be secured and must be shown to meet the certification basis of the airplane. Deactivation must not result in the need for additional instructions for continued airworthiness.

Note 1: Appendix A of this AD provides criteria that should be included in the deactivation procedures. The proposed deactivation procedures should be submitted to the Manager, New York ACO, as soon as possible to ensure timely review and approval.

Note 2: For technical information, contact Mazdak Hobbi, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7330; fax 516–794–5531.

(2) Modify the auxiliary fuel system by doing all the applicable actions in accordance with the Accomplishment Instructions of DeCrane Aerospace 737–700 IGW Service Bulletin ST00936NY–D–28–SB–001_K, dated August 25, 2008; and DeCrane Aerospace 737–700 IGW Service Bulletin ST00936NY–D–28–SB–021_K, dated January 8, 2009.

Credit for Actions Accomplished in Accordance With Previous Service Information

(h) Actions accomplished before the effective date of this AD according to the service information identified in Table 1 of this AD, are considered acceptable for compliance with the corresponding actions specified in paragraph (g)(2) of this AD.

TABLE 1—CREDIT SERVICE INFORMATION

Service Bulletin	Revision	Date
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–001__G	G	March 27, 2008.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–001__H	H	May 16, 2008.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–001__J	J	July 24, 2008.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–021__D	D	October 31, 2007.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–021__E	E	December 7, 2007.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–021__F	F	February 7, 2008.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–021__G	G	March 14, 2008.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–021__H	H	July 24, 2008.
DeCrane Aerospace 737–700 IGW ST00936NY–D–28–SB–021__J	J	August 25, 2008.
DeCrane Aircraft 737–700IGW ST00936NY–28–SB–001__IR	Initial Release	September 3, 2004.
DeCrane Aircraft 737–700 IGW ST00936NY–28–SB–001__A	A	September 15, 2004.
DeCrane Aircraft 737–700 IGW ST00936NY–28–SB–001__B	B	October 26, 2004.
DeCrane Aircraft 737–700 IGW ST00936NY–28–SB–001__C	C	November 4, 2004.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–001__D	D	August 8, 2007.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–001__E	E	January 8, 2008.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–001__F	F	February 5, 2008.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–021__IR	Initial Release	January 31, 2007.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–021__A	A	May 17, 2007.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–021__B	B	July 3, 2007.
PATS Aircraft 737–700 IGW ST00936NY–D–28–SB–021__C	C	August 8, 2007.

Reporting Requirement

(i) Within 45 days after the effective date of this AD, submit a report to the Manager, New York ACO. The report must include the information listed in paragraphs (i)(1), (i)(2), and (i)(3) of this AD. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD, and assigned OMB Control Number 2120–0056.

(1) The airplane registration and operation status.

(2) The usage frequency in terms of total number of flights per year and total number of flights per year for which the auxiliary tank is used.

(3) Method of complying with paragraph (g)(1) of this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, New York ACO, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

Material Incorporated by Reference

(k) You must use DeCrane Aerospace 737–700 IGW Service Bulletin ST00936NY–D–28–SB–001_K, dated August 25, 2008; and DeCrane Aerospace 737–700 IGW Service Bulletin ST00936NY–D–28–SB–021_K, dated January 8, 2009; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact DeCrane Aerospace, PATS Aircraft Systems, 21652 Nanticoke Avenue, Georgetown, Delaware 19947; telephone 302–253–6157; fax 302–855–0153; e-mail *giuseppecoppola@decraneaerospace.com;* Internet *http://www.decraneaerospace.com.*

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

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

Appendix A

Deactivation Criteria

The auxiliary fuel tank deactivation procedures required by paragraph (g)(1) of this AD should address the following actions.

(1) Permanently drain auxiliary fuel tanks, and clear them of fuel vapors to eliminate the possibility of out-gassing of fuel vapors from the emptied auxiliary tank.

(2) Disconnect all electrical connections from the fuel quantity indication system (FQIS), fuel pumps if applicable, float switches, and all other electrical connections required for auxiliary tank operation, and stow them at the auxiliary tank interface.

(3) Disconnect all pneumatic connections if applicable, cap them at the pneumatic source, and secure them.

(4) Disconnect all fuel feed and fuel vent plumbing interfaces with airplane original equipment manufacturer (OEM) tanks, cap them at the airplane tank side, and secure them in accordance with a method approved by the FAA; one approved method is specified in AC 25–8 Auxiliary Fuel System Installations. In order to eliminate the possibility of structural deformation during cabin decompression, leave open and secure the disconnected auxiliary fuel tank vent lines.

(5) Pull and collar all circuit breakers used to operate the auxiliary tank.

(6) Revise the weight and balance document, if required, and obtain FAA approval.

(7) Amend the applicable sections of the applicable airplane flight manual (AFM) to indicate that the auxiliary fuel tank is deactivated. Remove auxiliary fuel tank operating procedures to ensure that only the OEM fuel system operational procedures are contained in the AFM. Amend the Limitations Section of the AFM to indicate that the AFM Supplement for the STC is not in effect. Place a placard in the flight deck indicating that the auxiliary tank is deactivated. The AFM revisions specified in this paragraph may be accomplished by inserting a copy of this AD into the AFM.

(8) Amend the applicable sections of the applicable flight crew operating manual and airplane maintenance manual to remove auxiliary tank maintenance procedures.

(9) After the auxiliary fuel tank is deactivated, accomplish procedures such as leak checks and pressure checks deemed necessary before returning the airplane to service. These procedures must include verification that the airplane FQIS and fuel distribution systems have not been adversely affected.

(10) Revise the instructions for continued airworthiness, as required, after deactivation.

(11) Include with the operator's proposed procedures any relevant information or additional steps that are deemed necessary by the operator to comply with the deactivation and return the airplane to service.

Issued in Renton, Washington, on September 3, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–22679 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0217; Directorate Identifier 2009–NE–23–AD; Amendment 39–16427; AD 2010–18–13]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This AD becomes effective October 18, 2010. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 18, 2010.

ADDRESSES: You can get the service information identified in this AD from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605.

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

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to PW PW4000 series turbofan engines. We published the proposed AD in the **Federal Register** on March 25, 2010 (75 FR 14375). That action proposed to require initial and repetitive FPI for cracks in the blade locking and loading slots of the HPC drum rotor disk assembly.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Concur With the AD as Proposed

Two commenters, United Services and Boeing, concurred with the AD as proposed.

Request To Reference the Latest Service Bulletin (SB)

One commenter, a private citizen, requested that we reference the latest SB in the AD, which is Pratt & Whitney SB No. PW4G–112–72–264, Revision 2, dated February 23, 2010.

We agree. We changed the AD to use the most current version of the SB.

Request To Change the Inspection Compliance Time

One commenter, Delta Tech Ops, requested that we change the inspection compliance time to be done only when all of the blades of a specific stage are removed, rather than when any of the blades from a specific stage are removed, as written in the proposed AD. The commenter states that doing the inspection when any blades are removed is an added maintenance burden.

We do not agree. Our risk assessment establishes that, because the rotating life-limited parts addressed by this AD action have a known cracking problem, the parts must be inspected at the times stated in the AD. Inspection can be done without removing all of the blades, by sliding remaining installed blades to expose the locking and loading slots for local fluorescent penetrant inspection. We did not change the AD.

Engine Model Removed

Since we issued the proposed AD, we became aware that we inadvertently listed engine model PW4156. We removed that engine model from the AD.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–18–13 Pratt & Whitney: Amendment 39–16427. Docket No. FAA–2010–0217; Directorate Identifier 2009–NE–23–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 18, 2010.

Affected ADs

(b) None.

Applicability

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

Unsafe Condition

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

Compliance

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

Local Fluorescent Penetrant Inspection

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

TABLE 1—COMPLIANCE TIMES AND SERVICE BULLETINS BY ENGINE MODEL

For engine model.	Inspect whenever.	Use.
(1) PW4074, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3.	Any of the 13th or 14th stage blades are removed during a shop visit.	Paragraphs 1.A. through 1.B. of the Accomplishment Instructions of PW4G–112–72–264, Revision 2, dated February 23, 2010.
(2) PW4164, PW4168, and PW4168A	Any of the 13th, 14th, or 15th stage blades are removed during a shop visit.	Paragraphs 1.A. through 1.C of the Accomplishment Instructions of PW4G–100–72–186, Revision 1, dated September 2, 2004.
(3) PW4052, PW4056, PW4060, PW4062, PW4062A, PW4152, PW4156A, PW4158, PW4460, and PW4462.	Any of the 13th, 14th, or 15th stage blades are removed during a shop visit.	Paragraphs 1.A. through 1.C. of the Accomplishment Instructions of PW4ENG 72–796, dated June 11, 2009.

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

Alternative Methods of Compliance

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

Related Information

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

Material Incorporated by Reference

(j) You must use the service information specified in the following Table 2 to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of the documents listed in the following Table 2 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605, for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 2—INCORPORATION BY REFERENCE

Pratt & Whitney Service Bulletin No.	Page	Revision	Date
PW4G–100–72–186; Total Pages: 11	ALL	1	September 2, 2004.
PW4G–112–72–264; Total Pages: 11	ALL	2	February 23, 2010.
PW4ENG 72–796; Total Pages: 22	ALL	Original	June 11, 2009.

Issued in Burlington, Massachusetts, on August 26, 2010.

Thomas A. Boudreau,

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

[FR Doc. 2010–21869 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0432; Directorate Identifier 2010–NM–001–AD; Amendment 39–16430; AD 2010–19–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Model DHC–8–200 and DHC–8–300 Series Airplanes

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

ACTION: Final rule.

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

During a recent production fuel system test, it was found that all three flapper valves located in each collector tank did not conform to the design requirements, due to the fact that a valve spring was installed on the flapper hinge pin. This valve spring should have been removed prior to installation of the valves.

* * * * *

With the valve spring installed, the flapper valve is held closed by the valve spring, preventing gravity feed. In the event of scavenge system failure, the collector tank fuel level can no longer be maintained, potentially leading to an in-flight engine shutdown.

* * * * *

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

DATES: This AD becomes effective October 18, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 18, 2010.

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

FOR FURTHER INFORMATION CONTACT: Kent Fredrickson, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7364; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 26, 2010 (75 FR 21530). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During a recent production fuel system test, it was found that all three flapper valves located in each collector tank did not conform to the design requirements, due to the fact that a valve spring was installed on the flapper hinge pin. This valve spring should have been removed prior to installation of the valves.

It was subsequently determined that this condition is restricted to the 21 aircraft listed in the Applicability section above.

With the valve spring installed, the flapper valve is held closed by the valve spring, preventing gravity feed. In the event of scavenge system failure, the collector tank fuel level can no longer be maintained, potentially leading to an in-flight engine shutdown.

In order to ensure adequate fuel transfer to the collector tank at all times, this directive mandates a one-time [detailed] inspection of each of the six flapper valves, removal of the valve spring, if installed, and application of an identification mark on each inspected valve.

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

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 4 products of U.S. registry. We also estimate that it will take about 30 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $10,200, or $2,550 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–19–02 Bombardier, Inc. Amendment 39–16430. Docket No. FAA–2010–0432; Directorate Identifier 2010–NM–001–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 18, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier, Inc. Model DHC–8–201, –202, –301, –311, and –315 airplanes, certificated in any category, having serial numbers 644 through 664 inclusive.

Subject

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

Reason

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

During a recent production fuel system test, it was found that all three flapper valves located in each collector tank did not conform to the design requirements, due to the fact that a valve spring was installed on the flapper hinge pin. This valve spring should have been removed prior to installation of the valves.

It was subsequently determined that this condition is restricted to the 21 aircraft listed in the Applicability section above.

With the valve spring installed, the flapper valve is held closed by the valve spring, preventing gravity feed. In the event of scavenge system failure, the collector tank fuel level can no longer be maintained, potentially leading to an in-flight engine shutdown.

In order to ensure adequate fuel transfer to the collector tank at all times, this directive mandates a one-time [detailed] inspection of each of the six flapper valves, removal of the valve spring, if installed, and application of an identification mark on each inspected valve.

Compliance

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

Actions

(g) Within 1,000 flight hours after the effective date of this AD, do a detailed inspection of each collector tank flapper valve for the presence of a valve spring, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–54, dated April 22, 2009. If the valve spring is not present, before further flight, apply an identification mark, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–54, dated April 22, 2009. If the valve spring is present, before further flight, remove the valve spring and apply an identification mark, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–28–54, dated April 22, 2009.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(i) Refer to MCAI Canadian Airworthiness Directive CF–2009–40, dated November 9, 2009; and Bombardier Service Bulletin 8–28–54, dated April 22, 2009; for related information.

Material Incorporated by Reference

(j) You must use Bombardier Service Bulletin 8–28–54, dated April 22, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on September 2, 2010.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–22680 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is implementing Executive Order 13350 of July 29, 2004, which terminated the national emergency declared with respect to Iraq in Executive Order 12722 of August 2, 1990, and revoked that and subsequent Executive orders, by removing the Iraqi Sanctions Regulations from the Code of Federal Regulations.

DATES: *Effective Date:* September 13, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

As a result of the removal of the regime of Saddam Hussein and other developments in Iraq, the President issued Executive Order 13350 on July 29, 2004 (69 FR 46055, July 30, 2004). Executive Order 13350 terminated the national emergency declared with respect to Iraq in Executive Order 12722 of August 2, 1990. In addition, Executive Order 13350 revoked Executive Order 12722, Executive Order 12724 of August 9, 1990, Executive Order 12743 of January 18, 1991, Executive Order 12751 of February 14, 1991, and Executive Order 12817 of October 21, 1992. These Executive orders were all in furtherance of the national emergency declared in Executive Order 12722.

In Executive Order 12722, the President ordered the blocking of all property and interests in property that were in the United States or that came within the possession or control of United States persons, including overseas branches, of the Government of Iraq, its agencies, instrumentalities, and controlled entities, and the Central Bank of Iraq (55 FR 31803, August 3, 1990). Executive Order 12722 prohibited the importation of any goods or services of Iraqi origin into the United States and the exportation of any goods, technology, or services from the United States to Iraq. Executive Order 12722 also prohibited transactions relating to transportation and travel to or from Iraq by United States citizens or permanent resident aliens. The subsequent Executive orders took various additional steps with respect to the situation in Iraq.

Section 207(a) of the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1706(a)) contains a provision that allows the President to continue to prohibit transactions involving property in which a foreign country or national thereof has an interest after a national emergency has been terminated if the President determines that the continuation of such a prohibition with respect to that property is necessary on account of claims involving such country or its nationals. Pursuant to section 207(a) of IEEPA, the President determined in Section 1 of Executive Order 13350 that continuation of prohibitions with regard to transactions involving property blocked pursuant to Executive Orders 12722 or 12724 that continued to be blocked as of July 30, 2004, was necessary on account of claims involving Iraq. The new Iraq Stabilization and Insurgency Sanctions Regulations, 31 CFR part 576, include a general license unblocking all remaining property blocked pursuant to Section 1 of Executive Order 13350. *See* 31 CFR 576.510.

Please note that certain transactions relating to Iraq remain subject to the Iraq Stabilization and Insurgency Regulations, 31 CFR part 576, which implement Executive Order 13303 of May 22, 2003, Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007.

Accordingly, OFAC is removing the Iraqi Sanctions Regulations (the "Regulations") in 31 CFR part 575. The removal of part 575 from 31 CFR chapter V does not affect ongoing enforcement proceedings or prevent the initiation of enforcement proceedings where the relevant statute of limitations has not run.

Executive Order 12866, Administrative Procedure Act, and Regulatory Flexibility Act

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 31 CFR Part 575

Administrative practice and procedure, Banks, Banking, Blocking of assets, Exports, Foreign trade, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Terrorism, Travel restrictions.

PART 575—[REMOVED]

■ Pursuant to 50 U.S.C. 1701 *et seq.* and Executive Order 13350, the Office of Foreign Assets Control amends 31 CFR chapter V by removing part 575 for the reasons set forth in the preamble.

Dated: September 1, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control, Department of the Treasury.

Approved: September 2, 2010.

Stuart A. Levey,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2010–22548 Filed 9–10–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 576

Iraq Stabilization and Insurgency Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is adding the Iraq Stabilization and Insurgency Sanctions Regulations as a new part to the Code of Federal Regulations, to implement Executive Order 13303 of May 22, 2003, Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007.

DATES: *Effective Date:* September 13, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

Following the removal from power of the regime of Saddam Hussein in Iraq, the President issued Executive Order 13303 of May 22, 2003, under the authority of, *inter alia,* the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* ("IEEPA"), the National Emergencies Act, 50 U.S.C. 1601 *et seq.* ("NEA"), and section 5 of the United Nations Participation Act, 22 U.S.C. 287c ("UNPA"). In Executive Order 13303, the President found that the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or financial instruments arising from or related to the sale or marketing thereof obstructed the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq. The President further determined that this situation constituted an unusual and extraordinary threat to the national security and foreign policy of the United States and declared a national emergency to deal with that threat.

To deal with this emergency, section 1 of Executive Order 13303 provided that, unless licensed or otherwise authorized, any attachment, judgment, execution, or other judicial process is prohibited and shall be deemed null and void with respect to (1) the Development Fund for Iraq, and (2) all Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature arising from or related to the sale or marketing thereof, and interests therein, in which any foreign country or national thereof has any interest, that are in, or come within, the United States, or that are in, or come within, the possession or control of United States persons. Executive Order 13303 also provided that two earlier Executive orders that had imposed comprehensive sanctions against Iraq following the invasion of Kuwait, including a trade embargo and a blocking of Iraqi government assets (*i.e.,* Executive Order 12722 of August 2, 1990, and Executive Order 12724 of August 9, 1990), as well as a more recent Executive order confiscating and vesting title to certain blocked Iraqi property (*i.e.,* Executive Order 13290 of March 20, 2003) were not applicable to the property and interests in property described in section 1.

On August 28, 2003, the President issued Executive Order 13315, under the authority of, *inter alia,* IEEPA, the NEA, and the UNPA, and in view of United Nations Security Council Resolution ("UNSCR") 1483 of May 22, 2003. The President issued this Order to expand the scope of the national emergency declared in Executive Order 13303 to address the unusual and extraordinary threat to the national security and foreign policy of the United States posed by obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in that country, and the development of its political, administrative, and economic institutions. The President found that the removal of Iraqi property from the country by certain senior officials of the former Iraqi regime and their family members constituted such an obstacle. The President determined that the United States was engaged in armed hostilities and that it was in the interest of the United States to confiscate certain additional property of the former Iraqi regime, certain senior officials of the former regime, immediate family members of those officials, and controlled entities.

Section 1 of Executive Order 13315 blocked all property and interests in property in the United States or in the possession or control of United States persons, including any overseas branch, of: (1) The former Iraqi regime, (2) its state bodies, corporations, or agencies, (3) persons listed in the Annex to the Order, and (4) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be senior officials of the former Iraqi regime or their immediate family members or to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any of the persons listed in the Annex or determined to be subject to the Order.

Section 2 of Executive Order 13315 authorized the Secretary of the Treasury, in consultation with the Secretary of State, to confiscate property blocked pursuant to section 1 and determined to belong to a person, organization, or country that had planned, authorized, aided, or engaged in armed hostilities against the United States. Section 2 directed that all right, title, and interest in such confiscated property shall vest in the Department of the Treasury, and such vested property shall promptly be transferred to the Development Fund for Iraq.

Section 3 of Executive Order 13315 prohibited any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Order, as well as any conspiracy formed to violate such prohibitions. Section 4 defined certain terms used in the Order. Section 5 set forth the President's determination that the making of donations of the type specified in section 203(b)(2) of IEEPA (*i.e.,* donations of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering) by or to persons determined to be subject to the sanctions would seriously impair his ability to deal with the national emergency declared in Executive Order 13303 and expanded in scope in this Order and would endanger Armed Forces of the United States that were engaged in hostilities. Accordingly, the President prohibited the donation of such items unless authorized by OFAC.

On July 29, 2004, the President issued Executive Order 13350, which, because of the removal of the regime of Saddam Hussein and other developments, terminated the national emergency that had been declared in Executive Order 12722 with respect to Iraq, and revoked that Order, Executive Order 12724, and subsequent Orders that were based on the national emergency declared in Executive Order 12722. In Executive Order 13350, the President also took certain additional steps to deal with the national emergency declared in Executive Order 13303 and expanded in Executive Order 13315, which remains in effect.

Among other things, the President's termination of the national emergency that had been declared in Executive Order 12722 and his revocation of that and related Orders ended, as of July 30, 2004, the import and export prohibitions that had been imposed pursuant to Executive Orders 12722 and 12724 and related regulations, including

the Iraqi Sanctions Regulations, 31 CFR part 575. As a practical matter, most import and export transactions had been authorized by the provisions of subpart E of part 575 since May 23, 2003. OFAC has now removed the Iraqi Sanctions Regulations from 31 CFR chapter V effective September 13, 2010.

Section 1 of Executive Order 13350 provided for the continuation of prohibitions under section 207 of IEEPA, 50 U.S.C. 1706, with regard to transactions involving property blocked pursuant to Executive Orders 12722 and 12724 that continued to be blocked as of July 30, 2004. In addition, section 1 provided that the termination of the national emergency declared in Executive Order 12722 shall not affect any action taken or proceeding pending but not finally concluded or determined as of July 30, 2004, any action or proceeding based on any act committed prior to such date, or any rights or duties that matured or penalties that were incurred prior to such date. Accordingly, property blocked pursuant to Executive Orders 12722 and 12724 as of July 30, 2004, remained blocked.

Section 2 replaced and superseded the Annex to Executive Order 13315 in its entirety with the Annex to Executive Order 13350. Section 3 amended Executive Order 13290 by substituting the national emergency declared in Executive Order 13303 and expanded in Executive Order 13315 for the one declared in Executive Order 12722. Section 4 prohibited the trade in or transfer of ownership or possession of Iraqi cultural property or other items of archeological, historical, cultural, rare scientific, and religious importance that were illegally removed, or for which a reasonable suspicion existed that they were illegally removed, from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990, unless licensed or authorized pursuant to Executive Order 13350 or otherwise consistent with U.S. law. Section 5 prohibited the making of donations of the type specified in section 203(b)(2) of IEEPA by or to persons determined to be subject to the sanctions imposed by Executive Order 13315, as amended by Executive Order 13350.

The President issued Executive Order 13364 on November 29, 2004, further modifying the scope of the national emergency that was declared in Executive Order 13303, expanded in Executive Order 13315, and modified in Executive Order 13350. The President found that the threat of attachment or other judicial process against the Central Bank of Iraq constituted an obstacle to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in that country, and the development of political, administrative, and economic institutions in Iraq. Accordingly, Executive Order 13364 amended section 1 of Executive Order 13303 to extend that section's protection from attachment, judgment, execution, or other judicial process to any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by the Central Bank of Iraq, or held or otherwise controlled by any financial institution in the name or on behalf of, or otherwise for, the Central Bank of Iraq.

In addition, consistent with UNSCRs 1483 and 1546, dated May 22, 2003, and June 8, 2004, respectively, Executive Order 13364 amended section 1 of Executive Order 13303 to limit the immunity provided therein in two ways. First, it provided that the immunity from attachment for Iraqi petroleum and petroleum products and interests therein shall apply only until title passes to the initial purchaser. Second, it restricted the overall prohibition against attachment, judgment, execution, or other judicial process so that the immunity from attachment shall not apply with respect to any final judgment arising out of a contractual obligation entered into by the Government of Iraq, including any agency or instrumentality thereof, after June 30, 2004.

Finally, on July 17, 2007, the President issued Executive Order 13438, finding that acts of violence threatening the peace and stability of Iraq and undermining efforts to promote economic reconstruction and political reform in Iraq and to provide humanitarian assistance to the Iraqi people constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, he determined that it was in the interests of the United States to take additional steps with respect to the national emergency declared in Executive Order 13303, expanded in Executive Order 13315, and relied upon for additional steps in Executive Orders 13350 and 13364.

Section 1 of Executive Order 13438 blocked the property and interests in property in the United States or in the possession or control of United States persons, including any overseas branch, of any person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense: (i) To have committed, or to pose a significant risk of committing, an act of violence that has the purpose or effect of (A) threatening the peace or stability of Iraq or the Government of Iraq, or (B) undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people; (ii) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, such an act or acts of violence or any person whose property and interests in property are blocked pursuant to the Order; or (iii) to be owned or controlled by or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order. The prohibitions in section 1 include, but are not limited to, the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property have been blocked, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Acting under authority delegated to the Secretary of the Treasury by Executive Orders 13303, 13315, 13350, 13364 and 13438, OFAC is promulgating these Iraq Stabilization and Insurgency Sanctions Regulations, 31 CFR part 576 (the "Regulations"), to implement the provisions of those orders.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations sets forth: (a) The prohibitions contained in section 1 of Executive Order 13303, as amended by Executive Order 13364; (b) the prohibitions contained in section 1 of Executive Order 13315, as amended by Executive Order 13350; (c) the prohibitions contained in sections 1 and 4 of Executive Order 13350; and (d) the prohibitions contained in section 1 of Executive Order 13438. *See* §§ 576.201, 576.206, 576.208. Persons identified in the Annex to Executive Order 13315, as amended by Executive Order 13350, or designated by or under the authority of the Secretary of the Treasury pursuant to Executive Orders 13315 or 13438 are referred to throughout the Regulations as "persons whose property and interests in property are blocked pursuant to § 576.201(a)." The names of persons listed in or designated pursuant to Executive Orders 13315, 13350, and 13438 are published on OFAC's Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC's Web site. Those names also are published in the **Federal Register** as they are added to the List, and the entire List is republished

annually as Appendix A to 31 CFR chapter V.

Subpart C of the Regulations defines key terms used throughout this part. Subpart D of the Regulations sets forth interpretive sections regarding other provisions in the Regulations. Section 576.411 of subpart D interprets a provision unique to Part 576, § 576.208, which provides that the trade in or transfer of certain Iraqi cultural property is prohibited. OFAC may establish a violation of § 576.208 separate from, and independent of, other laws and regulations that prohibit the trade in or transfer of Iraqi cultural property. Section 576.411 states that the mere compliance with certain legal, administrative, or procedural requirements, such as those set forth by U.S. Customs and Border Protection, does not preclude a violation of § 576.208.

Transactions otherwise prohibited under the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of part 501 of 31 CFR chapter V. In addition to the general licenses, subpart E of the Regulations also contains certain statements of licensing policy. In particular, OFAC may license or authorize, on a case-by-case basis, judicial process with regard to property and interests in property protected by § 576.206(a) to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill. *See* § 576.508. The language in § 576.508 derives from UNSCR 1483, which requires all States to provide immunity to Iraqi petroleum, petroleum products, and natural gas in regard to any form of attachment, garnishment, or execution in their respective domestic legal systems, unless the proceeds are needed to satisfy liability for damages assessed in connection with an ecological accident that occurred after May 22, 2003.

Subpart F of the Regulations refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart H of the Regulations refers to subpart D of part 501 for applicable provisions relating to administrative procedures and sets forth a delegation of authorities. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 576

Administrative practice and procedure, Banks, Banking, Blocking of assets, Courts, Exports, Foreign trade, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 576 to 31 CFR chapter V to read as follows:

PART 576—IRAQ STABILIZATION AND INSURGENCY SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
576.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

576.201 Prohibited transactions involving blocked property.
576.202 Effect of transfers violating the provisions of this part.
576.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
576.204 Expenses of maintaining blocked physical property; liquidation of blocked property.
576.205 Evasions; attempts; conspiracies.
576.206 Protection granted to the Development Fund for Iraq, Iraqi Petroleum and Petroleum Products, and the Central Bank of Iraq.
576.207 Exemption for property controlled by the military forces of the United States and their coalition partners in Iraq.
576.208 Prohibited transactions related to certain Iraqi cultural property.
576.209 Exempt transactions.

Subpart C—General Definitions

576.301 Blocked account; blocked property.
576.302 Development Fund for Iraq.
576.303 Effective date.
576.304 Entity.
576.305 Former Iraqi regime.
576.306 Information or informational materials.
576.307 Interest.
576.308 Iraqi petroleum and petroleum products.
576.309 Licenses; general and specific.
576.310 Government of Iraq.
576.311 Person.
576.312 Property; property interest.
576.313 Transfer.
576.314 UNSC Resolution 1483.
576.315 United States.
576.316 U.S. financial institution.
576.317 United States person; U.S. person.

Subpart D—Interpretations

576.401 Reference to amended sections.
576.402 Effect of amendment.
576.403 Setoffs prohibited.
576.404 Termination and acquisition of an interest in property.
576.405 Transactions ordinarily incident to a licensed transaction.
576.406 Provision of services.
576.407 Offshore transactions.
576.408 Payments from blocked accounts to satisfy obligations prohibited.
576.409 Charitable contributions.
576.410 Credit extended and cards issued by U.S. financial institutions.
576.411 Prohibited transactions involving certain Iraqi cultural property.
576.412 Entities owned by a person whose property and interests in property are blocked.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

576.501 General and specific licensing procedures.
576.502 Effect of license or authorization.
576.503 Exclusion from licenses.
576.504 Payments and transfers to blocked accounts in U.S. financial institutions.
576.505 Entries in certain accounts for normal service charges authorized.
576.506 Investment and reinvestment of certain funds.
576.507 Provision of certain legal services authorized.
576.508 Judicial process in legal proceedings involving ecological accidents.
576.509 Authorization of emergency medical services.
576.510 Unblocking certain blocked property.

576.511 Property controlled by the military forces of the United States and their coalition partners in Iraq.
576.512 Transactions with certain blocked persons authorized.

Subpart F—Reports

576.601 Records and reports.

Subpart G—Penalties

576.701 Penalties.
576.702 Pre-Penalty Notice; settlement.
576.703 Penalty imposition.
576.704 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

576.801 Procedures.
576.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

576.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 110–96, 121 Stat. 1011; E.O. 13303, 68 FR 31931, 3 CFR, 2003 Comp., p. 227; E.O. 13315, 68 FR 52315, 3 CFR, 2003 Comp., p. 252; E.O. 13350, 69 FR 46055, 3 CFR, 2004 Comp., p. 196; E.O. 13364, 69 FR 70177, 3 CFR, 2004 Comp., p. 236; E.O. 13438, 72 FR 39719, 3 CFR, 2007 Comp., p. 224.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 576.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note to § 576.101: The Iraqi Sanctions Regulations, 31 CFR part 575, have been removed from 31 CFR chapter V.

Subpart B—Prohibitions

§ 576.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the former Iraqi regime or its state bodies, corporations, or agencies, or of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Persons listed in the Annex to Executive Order 13315 of August 28, 2003, as amended by Executive Order 13350 of July 29, 2004; and

(2) Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State,

(i) To be senior officials of the former Iraqi regime or their immediate family members; or

(ii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any of the persons whose property and interests in property are blocked pursuant to paragraphs (a)(1) or (a)(2) of this section; and

(3) Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense,

(i) To have committed, or to pose a significant risk of committing, an act or acts of violence that have the purpose or effect of:

(A) Threatening the peace or stability of Iraq or the Government of Iraq; or

(B) Undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people;

(ii) To have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, such an act or acts of violence or any person whose property and interests in property are blocked pursuant to paragraph (a)(3) of this section; or

(iii) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a)(3) of this section.

Note 1 to paragraph (a) of § 576.201: The names of persons listed in or designated pursuant to Executive Order 13315, as amended by Executive Order 13350, or designated pursuant to Executive Order 13438 of July 17, 2007, whose property and interests in property are blocked pursuant to paragraph (a) of this section, are published on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN" list) (which is accessible via the Office of Foreign Assets Control's Web site), published in the **Federal Register**, and incorporated into Appendix A to this chapter with the identifier "[IRAQ2]" (for persons designated pursuant to paragraphs (a)(1) and (a)(2) of this section) or "[IRAQ3]" (for persons designated pursuant to paragraph (a)(3) of this section). *See* § 576.412 concerning entities that may not be listed on the SDN list but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

Note 2 to paragraph (a) of § 576.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), in section 203 (50 U.S.C. 1702), explicitly authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this part are published on the SDN list, published in the **Federal Register**, and incorporated into Appendix A to this chapter with the identifier "[BPI–IRAQ2]" or "[BPI–IRAQ3]."

Note 3 to paragraph (a) of § 576.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) All property and interests in property blocked pursuant to Executive Order 12722 of August 2, 1990, or Executive Order 12724 of August 9, 1990, that continued to be blocked as of July 30, 2004, remain blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in, except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

Note to paragraph (b) of § 576.201: In § 576.510 of this part, the Office of Foreign Assets Control authorizes all transactions involving property and interests in property blocked solely pursuant to Executive Orders 12722 or 12724. The Iraqi Sanctions Regulations, 31 CFR part 575, which implemented Executive Orders 12722 and 12724, have been removed from 31 CFR chapter V.

(c) The prohibitions in paragraphs (a) and (b) of this section include, but are not limited to, prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services

by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraphs (a) or (b) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraphs (a) or (b) of this section.

(d) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(e) The prohibitions in paragraphs (a) and (b) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

§ 576.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 576.201(a) or § 576.201(b), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 576.201(a) or § 576.201(b), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Orders 13315, 13350, or 13438, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 576.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 576.201(a), or with respect to any property and interests in property blocked pursuant to § 576.201(b).

§ 576.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 576.201(a) or § 576.201(b) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 576.201(a) or § 576.201(b) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to

§ 576.201(a) or § 576.201(b) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 576.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 576.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 576.201(a) or § 576.201(b) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 576.201(a) or § 576.201(b) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 576.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 576.206 Protection granted to the Development Fund for Iraq, Iraqi Petroleum and Petroleum Products, and the Central Bank of Iraq.

(a) Unless licensed or otherwise authorized pursuant to this part, and except as provided in paragraph (b) of this section, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process on or after the effective date is prohibited, and shall be deemed null and void, with respect to the following:

(1) The Development Fund for Iraq;

(2) All Iraqi petroleum and petroleum products, and interests therein, but only until title passes to the initial purchaser, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein, in which any foreign country or a national thereof has any interest, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons; and

(3) Any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by the Central Bank of Iraq, or held, maintained, or otherwise controlled by any financial institution of any kind in the name of, on behalf of, or otherwise for the Central Bank of Iraq.

(b) The prohibitions in paragraph (a) of this section shall not apply with respect to any final judgment arising out of a contractual obligation entered into by the Government of Iraq, including any agency or instrumentality thereof, after June 30, 2004.

§ 576.207 Exemption for property controlled by the military forces of the United States and their coalition partners in Iraq.

The prohibitions in § 576.201(a)(1) and (a)(2) shall not apply to property and interests in property that come under the control of the military forces of the United States and their coalition partners present in Iraq and acting in their official capacity under the command or operational control of the commander of United States Central Command.

§ 576.208 Prohibited transactions related to certain Iraqi cultural property.

Unless licensed or otherwise authorized pursuant to this part or otherwise consistent with U.S. law, the trade in or transfer of ownership or possession of Iraqi cultural property or other items of archeological, historical, cultural, rare scientific, and religious importance that were illegally removed, or for which a reasonable suspicion exists that they were illegally removed, from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990, is prohibited.

Note to § 576.208: *See* § 576.411 for interpretive guidance on this section. Questions concerning whether particular Iraqi cultural property or other items are subject to this section should be directed to the Cultural Heritage Center, U.S. Department of State, tel. 202–632–6301, fax 202–632–6300, Web site *http://culturalheritage.state.gov,* e-mail *culprop@state.gov.*

§ 576.209 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in § 576.201(a)(3) do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of any information or informational materials, as defined in § 576.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of § 576.201(a)(3).

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 576.201(a)(3), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology, or software for use

in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 576.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in § 576.201(a)(3) do not apply to any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 576.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean:

(a) (1) Any account or property subject to the prohibitions in § 576.201(a) held in the name of a person whose property and interests in property are blocked pursuant to § 576.201(a), or in which such person has an interest, or

(2) Any account or property subject to the prohibitions in § 576.201(b), and

(b) With respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

Note to § 576.301: *See* § 576.412 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.302 Development Fund for Iraq.

The term *Development Fund for Iraq* means the fund established on or about May 22, 2003, on the books of the Central Bank of Iraq, by the Administrator of the Coalition Provisional Authority responsible for the temporary governance of Iraq and all accounts held for the fund or for the Central Bank of Iraq in the name of the fund.

§ 576.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 576.201(a)(1), 12:01 a.m. Eastern Daylight Time ("e.d.t."), August 29, 2003, for those persons listed on the Annex to Executive Order 13315, and 12:01 a.m., e.d.t., July 30, 2004, for those persons added to the Annex to Executive Order 13315 by Executive Order 13350;

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 576.201(a)(2) or (a)(3), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked;

(c) With respect to the transactions prohibited by § 576.206(a)(1) and (a)(2), 12:01 a.m. e.d.t., May 23, 2003;

(d) With respect to the transactions prohibited by § 576.206(a)(3), 12:01 a.m. Eastern Standard Time ("e.s.t."), November 30, 2004.

(e) With respect to the transactions prohibited by § 576.201(b) or § 576.208, 12:01 a.m. e.d.t., July 30, 2004.

§ 576.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup or other organization.

§ 576.305 Former Iraqi regime.

The term *former Iraqi regime* means the Saddam Hussein regime that governed Iraq until on or about May 1, 2003.

§ 576.306 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

Note to paragraph (a) of § 576.307: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to sections 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 576.307 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* "an interest in property") means an interest of any nature whatsoever, direct or indirect.

§ 576.308 Iraqi petroleum and petroleum products.

The term *Iraqi petroleum and petroleum products* means any petroleum, petroleum products, or natural gas originating in Iraq, including any Iraqi-origin oil inventories, wherever located.

§ 576.309 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 576.309: *See* § 501.801 of this chapter for licensing procedures.

§ 576.310 Government of Iraq.

The term *Government of Iraq* means:

(a) Any interim or permanent Iraqi government in authority after June 30, 2004, and any subdivision, agency, or instrumentality thereof; and

(b) Any partnership, association, corporation, or other organization substantially owned or controlled by the foregoing.

§ 576.311 Person.

The term *person* means an individual or entity.

§ 576.312 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate

mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 576.313 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 576.314 UNSC Resolution 1483.

The term *UNSC Resolution 1483* means United Nations Security Council Resolution No. 1483, adopted May 22, 2003.

§ 576.315 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 576.316 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 576.317 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 576.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 576.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 576.403 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 576.201 if made after the effective date.

§ 576.404 Termination and acquisition of an interest in property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 576.201, unless there exists in the property another interest that is blocked pursuant to § 576.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 576.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

(c) Unless otherwise provided in a license or authorization issued pursuant to this part, Iraqi petroleum and petroleum products shall enjoy the protections of § 576.206 until title passes to the initial purchaser. For purposes of this part, an *initial purchaser* is a purchaser other than the Government of Iraq or persons acting for it or on its behalf in the marketing or sale of Iraqi petroleum and petroleum products.

§ 576.405 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 576.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c)

Example. A license authorizing Company A, whose property and interests in property are blocked pursuant to § 576.201(a), to complete a securities sale also authorizes all activities by other parties required to

complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.406 Provision of services.

(a) Except as provided in § 576.209, the prohibitions on transactions involving blocked property contained in § 576.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 576.201(a); or

(2) With respect to property interests subject to § 576.201.

(b)

Example: U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 576.201(a).

Note to § 576.406: *See* §§ 576.507 and 576.509 on licensing policy with regard to the provision of certain legal and medical services.

§ 576.407 Offshore transactions.

The prohibitions in § 576.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 576.201, or property in which a person whose property and interests in property are blocked pursuant to § 576.201 has or has had an interest since the effective date.

§ 576.408 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 576.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 576.409 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 576.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 576.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from any such person.

§ 576.410 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 576.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.411 Prohibited transactions involving certain Iraqi cultural property.

(a) The prohibition on trade in or transfer of ownership or possession of certain Iraqi cultural property in § 576.208 is separate from, and independent of, other laws and regulations that may also prohibit the same conduct.

(b) The mere compliance with certain legal, administrative, or procedural requirements, such as the filing of a U.S. Customs and Border Protection Form 3461 (Entry/Immediate Delivery) or U.S. Customs and Border Protection Form 7501 (Entry Summary), does not render the trade in or transfer of Iraqi cultural property otherwise consistent with U.S. law for purposes of § 576.208. The trade in or transfer of Iraqi cultural property as described in § 576.208 would violate § 576.208 regardless of whether the U.S. Customs and Border Protection forms were truthfully and accurately completed.

Note to § 576.411: Other laws and regulations potentially applicable to the unlawful trade in or transfer of Iraqi cultural property include, but are not limited to, the transportation of stolen goods, 18 U.S.C. 2314; the receipt of stolen goods, 18 U.S.C. 2315; the importation of goods contrary to law, 18 U.S.C. 545 and 19 U.S.C. 1595a(a), (b), and (c); the exportation of goods contrary to law, 19 U.S.C. 1595a(d); the importation of stolen cultural property, 19 U.S.C. 2607; the importation of cultural property pertaining to the inventory of a museum or religious or secular public monument, 19 CFR 12.104a; and the emergency protection of Iraqi cultural antiquities, 19 CFR 12.104j.

§ 576.412 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 576.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 576.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13315, as amended, or designated pursuant to § 576.201(a)(2) or (3).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 576.501 General and specific licensing procedures.

For provisions relating to licensing procedures, *see* part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 576.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or

with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 576.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 576.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 576.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 576.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 576.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 576.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 576.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 576.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 576.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.,* through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 576.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 576.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 576.201(a) is prohibited unless licensed pursuant to this part.

§ 576.508 Judicial process in legal proceedings involving ecological accidents.

The Office of Foreign Assets Control may issue specific licenses on a case-by-case basis to authorize the attachment, judgment, decree, lien, execution, garnishment, or other judicial process against property and interests in property protected by § 576.206 to satisfy liability for damages assessed in connection with an ecological accident (including an oil spill) that occurred after May 22, 2003.

§ 576.509 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 576.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 576.510 Unblocking certain blocked property.

(a) Except for such property and interests in property described in paragraph (b) of this section, all transactions involving property and interests in property blocked pursuant to § 576.201(b) of this part are authorized.

(b) The authorization in paragraph (a) of this section does not apply to blocked property and interests in property of persons subject to sanctions pursuant to § 576.201(a) of this part or any other part of 31 CFR chapter V.

§ 576.511 Property controlled by the military forces of the United States and their coalition partners in Iraq.

The prohibition in § 576.201(a)(3) that deals with blocked property and interests in property shall not apply to property and interests in property controlled by the military forces of the United States and their coalition partners present in Iraq and acting in their official capacity under the command or operational control of the commander of United States Central Command.

Note to § 576.511: *See* § 576.207 of this part, which exempts property and interests in property that come under the control of the military forces of the United States and their coalition partners present in Iraq and acting in their official capacity from the prohibitions in § 576.201(a)(1) and (2).

§ 576.512 Transactions with certain blocked persons authorized.

(a) All transactions with state bodies, corporations, or agencies of the former Iraqi regime that are otherwise prohibited by § 576.201(a) are authorized.

(b) The authorization in paragraph (a) of this section does not apply to any transactions with state bodies, corporations, or agencies of the former Iraqi regime listed in Appendix A to 31 CFR chapter V.

Subpart F—Reports

§ 576.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 576.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) ("IEEPA"), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, or regulation issued under IEEPA.

Note to paragraph (a)(1) of § 576.701: As of the date of publication in the **Federal Register** of the final rule adding this part to 31 CFR chapter V September 13, 2010, IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 576.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty

Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 576.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 576.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 576.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 576.802 Delegation by the Secretary of the Treasury.

(a) Except as provided in paragraph (b) of this section, any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13303 of May 22, 2003, and any subsequent Executive orders relating to the national emergency declared therein, including but not limited to Executive Order 13315 of August 28, 2003, and Executive Order 13438 of July 17, 2007, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated the authority so to act.

(b) Unless otherwise delegated, the authority provided in section 2 of Executive Order 13315 to confiscate property blocked pursuant to this part and transfer all vested right, title, and interest in such property to the Development Fund for Iraq shall be exercised only by the Secretary of the Treasury, in consultation with the Secretary of State.

Subpart I—Paperwork Reduction Act

§ 576.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: September 1, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control, Department of the Treasury.

Approved: September 2, 2010.

Stuart A. Levey,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2010–22546 Filed 9–10–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0787]

RIN 1625–AA09

Drawbridge Operation Regulation; Pequonnock River, Bridgeport, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the drawbridge operation regulations that govern the operation of two bridges, the Congress Street Bridge at mile 0.4, and the Grand Street Bridge at mile 0.9, across the Pequonnock River at Bridgeport, Connecticut. This final rule removes the regulations for the two bridges because the draw spans of the bridges have been removed.

DATES: This rule is effective September 13, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket USCG–2010–0787 and are available by going to *http://www.regulations.gov,* inserting USCG–2010–0787 in the "keyword" box, and then clicking "search." This material is 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 Bridge Branch, 212–668–7165, *judy.leung-yee@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 final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedures 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 we are removing the operation regulations for two moveable draw bridges that no longer have moveable spans.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The drawbridges listed under the regulations we are removing no longer have moveable spans; therefore, the drawbridge operation regulations are no longer necessary.

Background and Purpose

The drawbridge operation regulations for the Congress Street Bridge at mile 0.4, and the Grand Street Bridge at mile 0.9, across the Pequonnock River at Bridgeport, Connecticut, are listed at 33 CFR 117.219(d) and 33 CFR 117.219(f).

The moveable span at the Congress Street Bridge was removed due to

deterioration but the approach spans have been retained for a future bridge replacement. The Grand Street Bridge was demolished in its entirety in 2000.

The Coast Guard, as a result, is removing the drawbridge operation regulations for the above bridges because they are no longer applicable or necessary since the moveable spans have been removed.

Discussion of Rule

This final rule removes the drawbridge operation regulations listed at 33 CFR 117.219(d) that govern the operation of the Congress Street Bridge at mile 0.4, and 33 CFR 117.219(f) that govern the operation of the Grand Street Bridge at mile 0.9, both across the Pequonnock River at Bridgeport, Connecticut. The moveable spans for both bridges were removed and the drawbridge operation regulations are no longer necessary as a result.

Paragraph (a) stating that public vessels of the United States must be passed as soon as possible, will also be removed by this final rule because it is now listed at 33 CFR 117.31, under Subpart A, General Requirements.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This conclusion is based upon the fact that we are removing regulations that are no longer applicable or necessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that we are removing regulations that are no longer applicable or necessary.

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 they can better evaluate its effect 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 a taking implication under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property.

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 would not create an environmental risk to health or risk to safety that might 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 guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one

of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.219 to read as follows:

§ 117.219 Pequonnock River.

(a) The draw of the Stratford Avenue Bridge at mile 0.1, at Bridgeport, shall open on signal; except that, from 6:45 a.m. to 7:15 a.m., 7:45 a.m. to 8:15 a.m., 11:45 a.m. to 1:15 p.m., and 4:30 p.m. to 6:10 p.m., the draw need not open for the passage of vessel traffic. From December 1 through March 31, from 8 p.m. to 4 a.m., the draw shall open on signal if at least a six-hour notice is given by calling the number posted at the bridge.

(b) The draw of the Metro-North Peck Bridge at mile 0.3, at Bridgeport, shall open on signal or after three blasts as follows:

(1) From 5:45 a.m. to 9 p.m. except:

(i) From Monday through Friday, excluding holidays or emergencies, the draw need not be opened from 6:45 a.m. to 7:15 a.m., 7:45 a.m. to 8:15 a.m., and 4:30 p.m. to 6:10 p.m.

(ii) From Monday through Friday, excluding holidays or emergencies, the draw need not be opened more than once during the periods from 5:45 a.m. to 6:45 a.m., 7:15 a.m. to 7:45 a.m., 8:15 a.m. to 9 a.m., and 6:10 p.m. to 8:15 p.m.

(2) From 9 p.m. to 5:45 a.m., the draw shall open on signal if at least an eight-hour notice is given by calling the number posted at the bridge.

(3) The draw need not open on signal if a train is approaching so closely that it may not be safely stopped; however, any delay in opening the draw shall not exceed seven minutes from the time the request to open is received.

(c) The draw of the East Washington Street Bridge at mile 0.6, shall open on signal or after one prolonged blast followed by two short blasts, if at least a twenty four hour notice is given by calling the number posted at the bridge.

Dated: August 27, 2010.

Daniel A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2010–22749 Filed 9–10–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0791]

RIN 1625–AA00

Safety Zone; Revolution 3 Triathlon, Lake Erie & Sandusky Bay, Cedar Point, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie and Sandusky Bay near Cedar Point, Ohio. The safety zone is intended to restrict vessels from portions of the Lake Erie during the Revolution 3 Cedar Point Triathlon. The temporary safety zone is necessary to protect participants of the swim portion of the triathlon race from potential hazards from vessels operating in the area.

DATES: This rule is effective from 6:30 a.m. through 9:30 a.m. on September 12, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0791 and are available online by going to *http://www.regulations.gov*, inserting USCG–2010–0791 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, contact or e-mail MSTC Benjamin Wagner, Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419) 418–6008, *Benjamin.D.Wagner@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 an agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 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 impractical as the Coast Guard did not receive notification of the final details of this event in sufficient time to issue an NPRM without delaying this rulemaking. A delay or cancellation of the event in order to allow for a notice and comment period is contrary to the public interest because of the hazards associated with vessel operation in close proximity to swimming participants. For the same reasons 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**. In addition, to the reasons stated above, this rule is intended to ensure the safety of the event participants, spectators, and other waterway users; thus any delay in the rule's effective date is impractical.

Background and Purpose

The temporary safety zone is necessary to ensure the safety of participants of the swim portion of a triathlon race as well as the safety of mariners operating in the vicinity of the triathlon. Establishing this temporary safety zone to control vessel movement around the location of the triathlon swim event will help ensure the safety of persons and property at the event and help minimize any potential risks associated with the event.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone. The safety zone will be enforced from 6:30 a.m. through 9:30 a.m. on September 12, 2010. This safety zone will encompass all waters of Lake Erie within the geographic area bounded by the following coordinates: starting at position 41°29′06″ N, 082°40′56″ W; then extending northeast to position 41°29′37″ N, 082°40′14″ W; then extending southeast to position 41°29′14″ N, 082°39′52″ W; then extending southwest to position

41°28′46″ N, 082°40′38″ W; then returning to the starting position.

In the event of inclement weather, an alternate safety zone area will be utilized with the date and times remaining the same. The alternate location within Sandusky Bay will encompass all waters of the Sandusky Bay within the geographic area bounded by the following coordinates: starting at position 41°28′22″ N, 082°40′44″ W; then extending northwest to position 41°28′45″ N, 082°41′11″ W; then extending southeast to position 41°28′12″ N, 082°41′06″ W; then returning to the starting position.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Detroit, or designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on scene representative. The Captain of the Port Detroit, or designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and because the zone is in an area where the Coast Guard expects minimal adverse impact to mariners from the zone's activation.

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 would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the applicable portions of the Lake Erie or Sandusky Bay near Cedar Point, OH identified below between 6:30 a.m. and 9:30 a.m. on September 12, 2010.

The safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The affected portions of Lake Erie and Sandusky Bay do not experience heavy vessel traffic on a regular basis. Any vessels that wish to utilize these waterways can be scheduled around the event. The safety zone will only be in effect during the morning of September 12, 2010 and will not substantially limit vessels intending to utilize the affected waterways. In the event that the temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit, or designated on-scene representative to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect. Additionally, the Captain of the Port Detroi, or on-scene representative will suspend enforcement of the safety zone if the event for which the zone is established ends earlier than the expected time.

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 could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone and is therefore categorically excluded under paragraph 34(g) of the Instruction.

A final environmental analysis check list and categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 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 temporary § 165.T09–0791 is as follows:

§ 165.T09–0791 Safety Zone; Revolution 3 Cedar Point Triathlon, Lake Erie & Sandusky Bay, Cedar Point, OH.

(a) *Location.* The following area is a safety zone:

(1) Primary Safety Zone; Lake Erie. All waters of Lake Erie within the geographic area bounded by the following coordinates: Starting at position 41°29′06″ N, 082°40′56″ W; then extending northeast to position 41°29′37″ N, 082°40′14″ W; then extending southeast to position 41°29′14″ N, 082°39′52″ W; then extending southwest to position 41°28′46″ N, 082°40′38″ W; then returning to the starting position. [DATUM: NAD 83].

(2) Alternate Safety Zone; Sandusky Bay. All waters of the Sandusky Bay within the geographic area bounded by the following coordinates: Starting at position 41°28′22″ N, 082°40′44″ W; then extending northwest to position 41°28′45″ N, 082°41′11″ W; then extending southeast to position 41°28′12″ N, 082°41′06″ W; then returning to the starting position. [DATUM: NAD 83].

(b) *Effective Period.* This regulation is effective from 6:30 a.m. through 9:30 a.m. on September 12, 2010. This regulation will be enforced as follows:

(1) On September 12, 2010 from 6:30 a.m. to 9:30 a.m., the safety zone listed in paragraph (a)(1) of this section will be enforced. In the event of inclement weather, the alternate safety zone listed in paragraph (a)(2) of this section will be enforced.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port Detroit, or designated on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit, or designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his or her behalf. The designated on-scene representative or the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit, or designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit, or designated on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, or designated on-scene representative.

Dated: August 26, 2010.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2010–22771 Filed 9–10–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1987–0002; FRL–9199–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Rocky Mountain Arsenal Federal Facility

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces the deletion of portions of the On-Post Operable Unit (OU3), specifically the Central and Eastern Surface Areas including surface media and structures (CES), and the surface media of the Off-Post Operable Unit (OU4) (OPS) of the Rocky Mountain Arsenal Federal Facility (RMA) located in Commerce City, Colorado from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and

Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to the surface media (soil, surface water, sediment) and structures (both former structures that have been demolished and structures retained for future use) within the CES and the surface media of the entire OPS. The rest of the On-Post OU, including groundwater below RMA that is west of E Street, and the groundwater that comprises the Off-Post OU will remain on the NPL and is not being considered for deletion as part of this action. Response activities will continue at those OUs. The EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, the deletion of these parcels does not preclude future actions under Superfund.

DATES: *Effective Date:* This action is effective September 13, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–1987–0002. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are:

—EPA's Region 8 Superfund Records Center, 1595 Wynkoop Street, Denver, Colorado 80202–2466. Hours: 8 a.m. to 4 p.m. by appointment (call 303–312–6473), Monday through Friday, excluding legal holidays; and the

—Joint Administrative Records Facility, Rocky Mountain Arsenal, 5650 Havana Street, Building 129, Commerce City, Colorado 80022–1748. Hours: 12 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, or by appointment (call 303–289–0983).

FOR FURTHER INFORMATION CONTACT: Jennifer Chergo, Community Involvement Coordinator (8OC), U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, 1–800–227–8917 or 303–312–6601; fax number: 303–312–7110; e-mail: *chergo.jennifer@epa.gov*.

SUPPLEMENTARY INFORMATION: The portion of the site to be deleted from the NPL is the surface media (soil, surface water, sediment) and structures (both former structures that have been demolished and structures retained for future use) within the CES and the surface media of the entire OPS. A Notice of Intent for partial Deletion for this Site was published in the **Federal Register** on June 17, 2010. The RMA Site-Specific Advisory Board (SSAB) requested additional time to adequately review the documentation. The public comment period for the NOIDp was extended through August 16, 2010 (75 FR 42361).

EPA received comment letters from seven organizations/individuals. Authors of five of the letters voiced their support for proceeding with the partial deletion based upon their confidence in the thoroughness of the cleanup activities conducted by the U.S. Army and Shell Oil Company; though one letter, from the Audubon Society of Greater Denver, was received after the public comment period closed. Authors of the remaining two letters were opposed to the proposed partial deletion of the CES and OPS. All public comments and EPA's responses are included in a Responsiveness Summary document available in both the docket, EPA–HQ–SFUND–1987–0002, at *http://www.regulations.gov* and in the local repositories listed above. Based on our responses to these comments, and in consultation with the State of Colorado through CDPHE, EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed and it is appropriate to proceed with deletion of the CES and the OPS.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion of a site from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of portions of a site from the NPL does not affect responsible party liability, in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 2, 2010.

Stephen S. Tuber,

Acting Regional Administrator, Region 8.

[FR Doc. 2010–22747 Filed 9–10–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal

Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Pickens County, Alabama, and Incorporated Areas Docket No.: FEMA–B–1071			
Big Ditch	Approximately 1,317 feet upstream of the confluence with Tributary 1.	+163	Unincorporated Areas of Pickens County.
	Approximately 1.1 mile upstream of the confluence with Tributary 1.	+174	
Little Bear Creek	Approximately 0.8 mile downstream of U.S. Route 82	+235	Unincorporated Areas of Pickens County.
	Approximately 1 mile upstream of 1st Avenue	+262	
Long Creek	Approximately 845 feet upstream of 1st Avenue	+254	Unincorporated Areas of Pickens County.
	Approximately 1,123 feet upstream of 1st Avenue	+255	
Lubbub Creek	Approximately 0.9 mile downstream of U.S. Route 82	+220	Unincorporated Areas of Pickens County.
	Approximately 1,292 feet upstream of U.S. Route 82	+227	
Stream 2	Approximately 1,375 feet downstream of the confluence with Stream 3.	+196	Unincorporated Areas of Pickens County.
	Approximately 1,300 feet downstream of the confluence with Stream 3.	+196	
Tombigbee River	Approximately 1.4 mile downstream of the confluence with Beaver Creek.	+144	City of Memphis.
	Approximately 0.9 mile downstream of the confluence with Beaver Creek.	+144	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Memphis
Maps are available for inspection at 128 Memphis Circle, Aliceville, AL 35442.

Unincorporated Areas of Pickens County
Maps are available for inspection at the Pickens County Judicial Center, 20 Phoenix Avenue, Room 102, Carrollton, AL 35447.

Jefferson County, Illinois, and Incorporated Areas Docket No.: FEMA–B–1066			
Bell Street Ditch	The confluence with Casey Fork (approximately 2,438 feet downstream of State Route 142).	+436	Unincorporated Areas of Jefferson County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
	Approximately at railroad (approximately 450 feet downstream of State Route 142).	+444	
Botches Ditch	Just upstream of State Route 37	+435	Unincorporated Areas of Jefferson County.
	Approximately 200 feet downstream of 30th Street	+479	
Brickyard Creek	Approximately 290 feet downstream of 10th Street	+465	Unincorporated Areas of Jefferson County.
	Just downstream of 11th Street	+469	
Casey Fork	Approximately 1,670 feet downstream of State Route 142	+434	Unincorporated Areas of Jefferson County.
	Approximately 2,735 feet upstream of Tolle Road	+455	
Church Tributary	Approximately 165 feet downstream of State Route 37	+466	Unincorporated Areas of Jefferson County.
	Approximately 200 feet upstream of State Route 37	+469	
East Fork Botches Ditch	Approximately 350 feet downstream of South Fishers Lane.	+475	Unincorporated Areas of Jefferson County.
	Just downstream of South Fishers Lane	+475	
Rend Lake	Approximately 12,500 feet west of the intersection of County Route 43 and East Franklin Road.	+415	City of Nason, Unincorporated Areas of Jefferson County, Village of Bonnie, Village of Ina.
	Approximately 2,400 feet west of the intersection of Bonnie Road and Cooley Lane.	+415	
West Tributary	Approximately 195 feet upstream of I–57/64	+458	Unincorporated Areas of Jefferson County.
	Just downstream of 42nd Street	+477	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Nason
Maps are available for inspection at City Hall, 121 North 9th Street, Nason, IL 62866.

Unincorporated Areas of Jefferson County
Maps are available for inspection at the Jefferson County Courthouse, 100 South 10th Street, Mount Vernon, IL 62864.

Village of Bonnie
Maps are available for inspection at the Village Hall, 270 South Railroad Avenue, Bonnie, IL 62816.

Village of Ina
Maps are available for inspection at the Village Hall, 306 South Elm Street, Ina, IL 62846.

Jo Daviess County, Illinois, and Incorporated Areas
Docket Nos.: FEMA–B–1053 and FEMA–B–1069

Apple River	Approximately 2.2 miles upstream of Crazy Hollow Road	+616	Unincorporated Areas of Jo Daviess County, Village of Hanover.
	Approximately 0.78 mile upstream of North Washington Street.	+622	
Mississippi River	Approximately 559.7 miles upstream of the confluence with the Ohio River (approximately 0.6 mile upstream of West Diggen Hill Road extended).	+604	Unincorporated Areas of Jo Daviess County.
	Approximately 572.3 miles upstream of the confluence with the Ohio River (approximately 1.5 mile upstream of Sand Ridge Road extended).	+608	
Mississippi River Backwater	Along the Apple River, at the Jo Daviess/Carroll county boundary (approximately 0.7 mile upstream of Savanna Army Depot Road in Carroll County).	+599	City of East Dubuque, Unincorporated Areas of Jo Daviess County.
	Along the Apple River, approximately 1.45 mile upstream of the Jo Daviess/Carroll county boundary (approximately 200 feet upstream of West Whitton Road).	+599	
	Along the Galena River, at its confluence with the Mississippi River (approximately 0.1 mile downstream of Railroad Bridge).	+605	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
	Along the Galena River, approximately 0.86 mile upstream of the confluence with the Mississippi River (approximately 0.76 mile upstream of Railroad Bridge).	+605	
	Approximately at the 3rd Street Channel, upstream side of the railroad.	+610	
	Approximately 200 feet northwest of 1st Street	+610	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of East Dubuque
Maps are available for inspection at City Hall, 303 Sinsinawa Avenue, East Dubuque, IL 61025.

Unincorporated Areas of Jo Daviess County
Maps are available for inspection at the Jo Daviess County Courthouse, 330 North Bench Street, Galena, IL 61036.

Village of Hanover
Maps are available for inspection at the Village Hall, 207 Jefferson Street, Hanover, IL 61041.

Woodford County, Illinois, and Incorporated Areas
Docket No.: FEMA–B–1060

Illinois River	Approximately 172 miles upstream of the confluence with the Mississippi River (approximately 1,500 feet upstream of Bruce Rich Lane extended).	+460	Village of Bay View Gardens.
	Approximately 173.4 miles upstream of the confluence with the Mississippi River (approximately at Leisure Lane extended).	+460	
Ten Mile Creek	Approximately 3 miles upstream of the confluence with the Illinois River (approximately at Ten Mile Creek Road extended).	+507	Unincorporated Areas of Woodford County.
	Approximately 3.2 miles upstream of the confluence with the Illinois River (approximately 1,075 feet upstream of Ten Mile Creek Road extended).	+512	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Woodford County
Maps are available for inspection at the Woodford County Courthouse, 115 North Main Street, Eureka, IL 61530.

Village of Bay View Gardens
Maps are available for inspection at the Bay View Gardens Village Hall, 300 Garber Lane, Room 8, East Peoria, IL 61611.

Alcorn County, Mississippi, and Incorporated Areas
Docket No.: FEMA–B–1072

Elam Creek	Approximately 123 feet downstream of South Harper Road.	+421	City of Corinth.
	Just downstream of County Road 701	+483	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Corinth
Maps are available for inspection at City Hall, 300 Childs Street, Corinth, MS 38834.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Winston County, Mississippi, and Incorporated Areas Docket No.: FEMA–B–1068			
Hughes Creek	Approximately 1,193 feet upstream of the confluence with Stream 2.	+487	Unincorporated Areas of Winston County.
	Approximately 1,534 feet upstream of the confluence with Stream 2.	+488	
Stream 1	Approximately 96 feet downstream of Files Road	+497	Unincorporated Areas of Winston County.
	Approximately 222 feet upstream of Files Road	+498	
Stream 2	Approximately 1,079 feet upstream of the confluence with Hughes Creek.	+484	Unincorporated Areas of Winston County.
	Approximately 1,380 feet upstream of the confluence with Hughes Creek.	+485	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Winston County

Maps are available for inspection at the Winston County Courthouse, 115 West Main Street, Louisville, MS 39339.

Yalobusha County, Mississippi, and Incorporated Areas Docket No.: FEMA–B–1072			
Enid Lake	Entire shoreline within Yalobusha County	+274	City of Water Valley, Unincorporated Areas of Yalobusha County.
Grenada Lake	Entire shoreline within Yalobusha County	+237	Town of Coffeeville, Unincorporated Areas of Yalobusha County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Water Valley

Maps are available for inspection at City Hall, 101 Blackmur Drive, Water Valley, MS 38965.

Town of Coffeeville

Maps are available for inspection at the Town Hall, 14615 Depot Street, Coffeeville, MS 38922.

Unincorporated Areas of Yalobusha County

Maps are available for inspection at the Yalobusha County Courthouse, 201 Blackmur Drive, Water Valley, MS 38965.

Niagara County, New York (All Jurisdictions) Docket No.: FEMA–B–1026			
Bergholtz Creek	At the confluence with Cayuga Creek	+570	City of Niagara Falls, Town of Cambria, Town of Wheatfield.
	Approximately 1.4 miles upstream of State Route 425 (Shawnee Road).	+631	
Bull Creek	At the confluence with Tonawanda Creek backwater area	+575	City of North Tonawanda, Town of Cambria, Town of Pendleton, Town of Wheatfield.
	Approximately 240 feet upstream of Lockport Road	+604	
Cayuga Creek	Approximately 0.3 mile upstream of Pine Avenue/U.S. Route 62.	+571	Town of Niagara, Town of Wheatfield.
	Approximately 70 feet downstream of the first airport overpass.	+584	
Cayuga Creek West Tributary	At the confluence with Cayuga Creek	+579	Town of Niagara.
	Approximately 240 feet upstream of Lockport Road	+621	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Cayuga Creek West Tributary Diversion.	Just upstream of Porter Road	+582	Town of Niagara.
	At the confluence with Cayuga Creek West Tributary	+582	
Donner Creek	Approximately 326 feet downstream of Beatle Road	+617	City of Lockport, Town of Lockport.
	Approximately 975 feet upstream of Lincoln Avenue	+631	
Eighteenmile Creek	Just downstream of Stone Road	+364	City of Lockport.
	Approximately 0.41 mile upstream of Stone Road	+364	
Eighteenmile Creek East	Approximately 1,300 feet downstream of Day Road	+374	Town of Newfane.
	Approximately 540 feet upstream of Day Road	+374	
Gulf Branch	At the confluence with Eighteenmile Creek	+364	City of Lockport.
	Approximately 800 feet upstream of the confluence with Eighteenmile Creek.	+364	
Johnson Creek 2	Approximately 665 feet downstream of Sherman Road	+476	Town of Hartland, Town of Royalton.
	Approximately 0.19 mile upstream of Telegraph Road	+541	
Mud Creek	At the confluence with Tonawanda Creek	+583	Town of Lockport, Town of Pendleton.
	Approximately 0.63 mile downstream of Minnick Road	+583	
Sawyer Creek (East)	At the confluence with Bull Creek	+575	City of North Tonawanda, Town of Wheatfield.
	At the centerline of Ward Road	+578	
Sawyer Creek (West)	At the confluence with Bergholtz Creek	+573	Town of Wheatfield.
	At the centerline of Ward Road	+579	
Tonawanda Creek	Approximately 0.9 mile upstream of Twin Cities Memorial Highway.	+572	City of North Tonawanda, Town of Lockport, Town of Pendleton, Town of Royalton, Town of Wheatfield.
	Approximately 2.8 miles upstream of Rapids Road	+593	
Town Ditch Number 2	At the confluence with Tonawanda Creek	+578	Town of Pendleton.
	Approximately 0.8 mile upstream of Campbell Boulevard	+578	
Twelvemile Creek	Approximately 2.0 miles upstream of Fitch Road	+300	Town of Porter, Town of Wilson.
	Approximately 870 feet downstream of Ransomville Road	+301	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Lockport
Maps are available for inspection at the Lockport Municipal Building, 1 Locks Plaza, Lockport, NY 14094.

City of Niagara Falls
Maps are available for inspection at City Hall, 745 Main Street, Niagara Falls, NY 14301.

City of North Tonawanda
Maps are available for inspection at City Hall, 216 Payne Avenue, North Tonawanda, NY 14120.

Town of Cambria
Maps are available for inspection at the Cambria Town Hall, 4160 Upper Mountain Road, Sanborn, NY 14132.

Town of Hartland
Maps are available for inspection at the Hartland Town Hall, 8942 Ridge Road, Gasport, NY 14067.

Town of Lockport
Maps are available for inspection at the Lockport Town Hall, 6560 Dysinger Road, Lockport, NY 14094.

Town of Newfane
Maps are available for inspection at the Town Hall, 2896 Transit Road, Newfane, NY 14108.

Town of Niagara
Maps are available for inspection at the Niagara Town Hall, 7105 Lockport Road, Niagara Falls, NY 14305.

Town of Pendleton
Maps are available for inspection at the Pendleton Town Hall, 6570 Campbell Boulevard, Lockport, NY 14094.

Town of Porter
Maps are available for inspection at the Porter Town Hall, 3265 Creek Road, Youngstown, NY 14174.

Town of Royalton
Maps are available for inspection at the Royalton Town Hall, 5316 Royalton Center Road, Middleport, NY 14105.

Town of Wheatfield

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

Maps are available for inspection at the Wheatfield Town Hall, 2800 Church Road, North Tonawanda, NY 14120.

Town of Wilson

Maps are available for inspection at the Town Hall, 375 Lake Street, Wilson, NY 14172.

Clatsop County, Oregon, and Incorporated Areas
Docket Nos.: FEMA–B–7748 and FEMA–B–7760

Beerman Creek	Approximately at U.S. Route 101	+21	Unincorporated Areas of Clatsop County.
	Approximately 0.95 mile upstream of Beerman Creek Lane.	+119	
Columbia River	Approximately 600 feet upstream of Southeast Anchor Road (west of Burlington Northern Railroad).	+12	City of Warrenton, Unincorporated Areas of Clatsop County.
	Approximately at Alternate U.S. Route 101 (south of Astoria Regional Airport).	+12	
Lewis and Clark River	Approximately at Alternate U.S. Route 101 (south of Astoria Regional Airport).	+12	Unincorporated Areas of Clatsop County.
	Approximately at the confluence with Heckard Creek (east of Lewis and Clark River).	+13	
Neawanna Creek	Approximately 50 feet downstream of 12th Avenue	+14	City of Seaside, Unincorporated Areas of Clatsop County.
	Approximately 0.7 mile upstream of Avenue S	+19	
Necanicum River	Approximately 450 feet downstream of 12th Avenue	+14	City of Seaside, Unincorporated Areas of Clatsop County.
	Approximately at the Howard Johnson Bridge	+39	
Necanicum River Overflow	Approximately 0.24 mile upstream of the confluence with the Necanicum River.	+32	City of Seaside, Unincorporated Areas of Clatsop County.
	Approximately 0.7 mile upstream of the confluence with the Necanicum River.	+37	
Upper Neawanna Creek	Approximately 260 feet downstream of Wahanna Road	+16	City of Seaside, Unincorporated Areas of Clatsop County.
	Approximately 840 feet upstream of Wahanna Road	+31	
Youngs River	Approximately 500 feet south of the confluence with Battle Creek Slough.	+12	Unincorporated Areas of Clatsop County.
	Approximately at the intersection of Wireless Road and U.S. Route 101.	+12	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Seaside

Maps are available for inspection at 989 Broadway Street, Seaside, OR 97138.

City of Warrenton

Maps are available for inspection at 225 South Main Street, Warrenton, OR 97146.

Unincorporated Areas of Clatsop County

Maps are available for inspection at 800 Exchange Street, Astoria, OR 97103.

Cheatham County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–1061

Big Bartons Creek	Approximately 1.1 mile upstream of the confluence with the Cumberland River.	+397	Unincorporated Areas of Cheatham County.
	Approximately 3.8 miles upstream of the confluence with the Cumberland River.	+397	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Cheatham County

Maps are available for inspection at the Cheatham County Building Commissioner's Office, 210 South Main Street, Ashland City, TN 37015.

Meigs County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–1064

Dake Branch	At the confluence with Watts Creek	+696	Unincorporated Areas of Meigs County.
	Approximately 0.8 mile upstream of the confluence with Watts Creek.	+696	
Decatur Branch	At the confluence with Decatur Creek	+732	Town of Decatur.
	Approximately 0.5 mile upstream of Church Lane	+745	
Decatur Creek	Approximately 0.5 miles downstream of State Route 58	+730	Town of Decatur.
	Approximately 605 feet upstream of State Route 58	+742	
Watts Creek	At the confluence with the Tennessee River	+696	Unincorporated Areas of Meigs County.
	Approximately 1.9 mile upstream of the confluence with the Tennessee River.	+696	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Meigs County

Maps are available for inspection at the Meigs County Courthouse, 17214 State Highway 58 North, Decatur, TN 37322.

Town of Decatur

Maps are available for inspection at City Hall, 17454 State Highway 58 North, Decatur, TN 37322.

Fairfax County, Virginia, and Incorporated Areas
Docket No.: FEMA–B–1066

Cameron Run	Approximately 1,975 feet upstream of the confluence with the Potomac River.	*11	Unincorporated Areas of Fairfax County.
	Approximately 1.0 mile upstream of the confluence with Pike Branch.	*30	
Dogue Creek	At the confluence with the Potomac River	*10	Unincorporated Areas of Fairfax County.
	Approximately 1.5 mile upstream of the confluence with the Potomac River at Mount Vernon Road.	*10	
Potomac River	Approximately 1,140 feet east of Carriage House Court	*10	Unincorporated Areas of Fairfax County.
	Approximately 1,250 feet south of the intersection of River Drive and Oak Grove Street.	*10	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Fairfax County

Maps are available for inspection at the Fairfax County Government Center, 12055 Government Center Parkway, Suite 659, Fairfax, VA 22035.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 1, 2010.

Sandra K. Knight,

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

[FR Doc. 2010–22764 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385 and 395

[Docket No. FMCSA–2004–18940]

RIN 2126–AA89

Electronic On-Board Recorders for Hours-of-Service Compliance

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; Technical amendments and response to petitions for reconsideration.

SUMMARY: FMCSA amends its April 5, 2010, final rule that established new performance standards for electronic on-board recorders (EOBRs) installed in commercial motor vehicles (CMVs). In response to petitions for reconsideration from Qualcomm Incorporated, XATA Corporation, and a group of industry stakeholders, FMCSA amends requirements relating to the temperature range in which EOBRs must be able to operate, and the connector type specified for the Universal Serial Bus (USB) interface.

DATES: The amendments in this final rule become effective September 13, 2010.

ADDRESSES: *Public Access to the Docket:* You may view, print, and download this final rule and all related documents and background material on-line at *http://www.regulations.gov,* using the Docket ID Number FMCSA–2004–18940. These documents can also be examined and copied for a fee at the U.S. Department of Transportation, Docket Operations, West Building–Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations (MC–PSV), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone (202) 366–4325.

SUPPLEMENTARY INFORMATION:

Legal Basis

The legal basis of the April 2010 final rule is also applicable to this final rule. See 75 FR 17208–17252, April 5, 2010.

Background

The FMCSA was notified about two technical errors in the April 5, 2010, "Electronic On-board Recorders for Hours of Service Compliance" final rule. (75 FR 17208). The FMCSA also received several petitions for reconsideration of the final rule that are discussed further in this final rule.

Technical Corrections

(1) The first sentence in § 385.807(a) currently reads "Following the close of the compliance review described in § 385.805(a), FMCSA will issue the motor carrier a written notice of remedial directive and proposed determination of unfitness." The regulatory citation should read "§ 385.805," not "§ 385.805(a)"

(2) Section 385.815(e) currently reads "The exemption granted under this section shall not apply to CMVs manufactured on or after the date 2 years from the effective date of this rule." The effective date referenced should be June 4, 2012, as is stated elsewhere in the final rule.

Petitions for Reconsideration

FMCSA received petitions for reconsideration, timely filed, from Qualcomm Incorporated (Qualcomm), XATA Corporation (XATA), and a group of industry stakeholders, including the American Trucking Associations' Technology & Maintenance Council (TMC) EOBR Task Force [1] (Stakeholders). Qualcomm and Stakeholders requested that FMCSA reconsider the final rule's requirements for (1) the temperature range in which EOBRs must be able to operate, and (2) the connector type specified for the USB interface. XATA's petition covered the same matters as those of Qualcomm and Stakeholders, but further requested that FMCSA (1) clarify certain reportable events in the diagnostic table, and (2) consider offering an additional alternative for the data transfer between an EOBR and a roadside safety official's portable computer. FMCSA met with the stakeholders on June 2, 2010 (a list of the attendees and a summary of the meeting has been placed in the docket) in response to their request for an opportunity to present their concerns in person.

A discussion of each of the petitioner's issues, followed by the Agency's assessment and decision, follows.

Operating Temperature Range

On January 18, 2007 (72 FR 2340), FMCSA published a notice of proposed rulemaking (NPRM) that proposed to amend the Federal Motor Carrier Safety Regulations to incorporate new performance standards for EOBRs. Among other things, the NPRM proposed to require an EOBR to be able to operate in temperatures ranging from −20 °F to 120 °F (−29 °C to 49 °C) (72 FR 2340, at 2393).

In comments to the docket, International Truck and Engine Corporation stated "Typical industry standards for commercial vehicles (See Society of Automotive Engineers (SAE) recommended practice J1455, "Surface Vehicle Recommended Practice: Recommended Environmental Practices for Electronic Equipment Design in Heavy-Duty Vehicle Applications") exceed the minimum requirements stated for operating temperature. Interior spaces are rated from −40 degrees C to +85 degrees C. International notes that under the minimum temperature specification there will be occasions where the EOBR may not operate until the vehicle interior is heated (or cooled) to the operating temperature given." Qualcomm stated "We recommend that environmental requirements defer to industry standards for comparable equipment and not be specified in this regulation. Specifically, SAE standard J1455—Recommended Environmental Practices for Electronic Equipment Design in Heavy-Duty Vehicle Applications should be referenced." TMC offered a similar comment in a Technical Policy Advisory submitted to the docket: "The environmental factors should be based on industry standards for similar types of equipment."

In the April 2010 final rule, FMCSA revised the EOBR operating temperature range to −40 °C to 85 °C (−40 °F to 185 °F). (75 FR 17208, at 17232). In doing so, the Agency referred to the detailed discussion in Section 5.2 of the SAE standard, which addresses temperature ranges in the forward interior of the vehicle, an area that includes the floor, instrument panel, and headliner. The instrument panel, discussed in Section 5.2.1, "includes the top of the dashboard

[1] Companies and organizations submitting the petition included Qualcomm Enterprise Services, PeopleNet, XATA Corporation, Continental Corporation, American Trucking Associations, American Bus Association, Commercial Vehicle Safety Alliance, National Private Truck Council, and United Motorcoach Association.

and the near vertical section carrying the instruments and steering wheel." The applicable design guidelines for this area, shown in Table 5 of the SAE standard, include a nominal temperature range of −40 °C to 85 °C (−40 °F to 185 °F), and a top surface temperature of −40 °C to 115 °C (−40 °F to 240 °F).[2]

In the April 2010 final rule, the Agency adopted the nominal temperature range of −40 °C to 85 °C (−40 °F to 185 °F) based on the SAE standard. Qualcomm, Stakeholders, and XATA all addressed the operating temperature range in their petitions for reconsideration. Qualcomm's description of its concern was representative. Qualcomm stated the final rule's EOBR temperature operating range, −40 °C to 85 °C, (40 °F to 185 °F), is beyond the range of the leading commercially-available systems today. Qualcomm noted that off-the-shelf telematics and on-board recorder systems are typically designed for −20 °C to 60 °C (−4 °F to 140 °F), and that it would require significant added technical features and costs in such devices to meet the requirements of the new regulation. Qualcomm also stated that it has been providing on-board computer systems to trucking companies operating throughout the United States and Canada for over 20 years, and that its units have not experienced any significant degradation in performance due to extreme weather conditions. Qualcomm added that its devices typically support a temperature operating range of −30 °C to 70 °C, (−22 °F to 158 °F), although some components of wireless communications systems are specified to operate in a −20 °C to 60 °C (−4 °F to 140 °F) range. During the June 2, 2010 meeting, the industry participants elaborated on the technical rationale for their statements and recommendation. Among other things, they noted that the operating temperature range is particularly important for the proper operation of displays, batteries, and the hardware components to support the Institute of Electrical and Electronics Engineers (IEEE) 802.11 wireless communications requirement.

Agency's Assessment and Decision

The −40 °C to 85 °C (−40 °F to 185 °F) operating temperature range requirement established in the April 2010 final rule was adopted based upon the Agency's review of the SAE standard referenced above. However, it is not the Agency's intention to require an EOBR to be so rugged that it is operable at extreme temperatures that will not realistically be seen in a truck's normal operating environment. As noted earlier, the Agency believes that drivers will be heating or cooling the cab to more reasonable temperatures prior to driving.

The petitioners note that there will be significant additional costs and transitional time delays associated with the production of EOBRs that are compliant with the operating temperature range specified in the April 2010 final rule. The Agency does not believe that the cost increases and time delays associated with producing EOBRs that comply with the temperature range specified in the April 2010 rule are commensurate with any potential benefits that might be derived from operability of EOBRs at these extreme temperatures.

For these reasons, FMCSA amends Appendix A of § 395.16 to delete the requirement for a specific operating temperature range.

USB Connector

In the 2007 NPRM, FMCSA proposed to require that EOBRs be capable of transferring records of duty status (RODS) using either the USB 2.0 or the RS–232 wired communication standards, as well as IEEE 802.11g or Bluetooth wireless communication standards. The NPRM did not specify the type of USB connector.

Most of the comments received expressed a preference for wireless standards, rather than wired. Of those that addressed wired standards, the main concern was that the RS–232 standard was outdated. No commenters addressed the type of USB connector.

Based upon the best information available to the Agency at the time, the final rule requires (1) a single USB compliant interface featuring a Type B connector, and (2) that the USB interface must (a) comply with USB V1.1 and V2.0 USB signaling standards, and (b) implement the Mass Storage class (08h) for software driverless operation.

All petitioners requested that FMCSA reconsider the requirement for a Type B connector. They noted that, although many EOBRs and related devices on the market support USB, these devices generally use a Type A connector. Very few, if any, EOBRs in the marketplace today would meet the final rule's requirement, and there would be significant added costs to retrofit current units, or to replace them with new devices that are Type B connector compliant. The petitioners noted that if the regulation were to be amended to permit the use of Type A connectors, existing devices would be immediately compliant with this provision.

Agency's Assessment and Decision

FMCSA amends Appendix A, Paragraph 2.2, to delete the requirement for a Type B connector, and replaces it with a requirement for a Type A connector. Although the Type B connector has sometimes been used to connect portable and handheld computing devices to printers, the Type A connector is much more appropriate for a computer-to-computer (or EOBR-to-computer) communications interface.

Fault Codes

XATA requests that FMCSA more clearly define the frequency, duration, and availability for capture of five EOBR Diagnostic Event Codes listed in Table 3 of Appendix A. Those codes are Low Voltage (LOWVLT), Battery Low (BATLOW), Communications Error (COMERR), Display Error (DYPERR), and Keyboard Error (KEYERR). The first two of these diagnostic events could occur when a vehicle is being started during cold weather, but would be resolved when the vehicle is warmed up. The third diagnostic events could occur when a CMV is operating in areas with limited cellular carrier coverage. [XATA notes that truckload motor carriers operate on irregular routes and in areas of the country where cellular communications coverage is sparse, and asks FMCSA to clarify how frequently gaps in coverage would have to occur to trigger an EOBR error report. [XATA is also concerned that the fourth and fifth diagnostic events, associated with malfunctions of the EOBR display and the keyboard or input device, are not sufficiently defined in the final rule to indicate what conditions needed to be reported.]]

Agency's Assessment and Decision

FMCSA agrees with XATA that there is a need to clarify thresholds and frequencies for the diagnostic events that would trigger fault codes for these various conditions. The Agency is aware that CMVs are equipped with sensors to detect these diagnostic events, and that setting or adjusting the reporting thresholds would be accomplished though software revisions. In contrast, the resolution of the petitioners' questions concerning the operating temperature range and the USB connector must be implemented through the EOBR hardware. Hardware

[2] The SAE standard notes that components on the top surface of the instrument panel experience a greater heat buildup when closed vehicles are parked in the bright sun. Heat radiated, incident sunlight, and re-radiated energy from the windshield can cause the temperature to build up to 115 °C (240 °F) in this region.

changes (operating temperature range and USB connecter) take considerably more lead time to address than the software changes that are the subject of XATA's request. Therefore, the Agency has determined that it would be more appropriate to consider the fault-code reporting thresholds during the implementation period prior to the June 4, 2012 compliance date of the final rule. Prior to the compliance date the Agency will make a determination if it is necessary to have a separate rulemaking or other regulatory action to address this matter.

Additional Data Transfer Options

XATA recommended that FMCSA consider adding an additional option for EOBR data transfer that would use the internet or internet-enabled technology. XATA's main concern is that this method would provide a longer-term solution than the wired and wireless methods specified in the final rule. Although this requested option would not take the place of the data transfer requirements specified in the April 2010 final rule, it could provide an alternative method, although it would require safety officials to be trained and provided the appropriate communications hardware to take advantage of it.

Agency's Assessment and Decision

FMSCA acknowledges the importance of using communications and data-transfer methods that are robust and have long-term implementability. The Agency is aware that some providers of EOBRs and support services currently use internet (Web) based storage and archiving of Hours of Service records. Unlike the fault-codes question, the resolution of this matter relates to the availability of communications hardware and software for roadside safety officials, rather than for the EOBR itself. The Agency will make a determination if it is necessary to have a separate rulemaking or other regulatory action to address this matter prior to the June 4, 2012 compliance date of the final rule.

FMCSA has notified Qualcomm Incorporated, XATA Corporation, and the group of industry stakeholders of the disposition of their respective petitions. Copies of these letters have been placed in the docket.

Rulemaking Analyses and Notices

Administrative Procedure Act

If an agency determines that the prior notice and opportunity for public comment on a rule normally required by the Administrative Procedure Act are impracticable, unnecessary, or contrary to the public interest (the so-called "good cause" finding), it may publish the rule without providing such notice and opportunity for comment. (See 5 U.S.C. 553 (b).) The amendments made by this final rule make changes to correct inadvertent errors and to respond to petitions for reconsideration. For these reasons, FMCSA finds good cause that notice and public comment are unnecessary. Further, the Agency finds good cause under 5 U.S.C. 553 (d) (3) to make the amendments effective upon publication.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. The Office of Management and Budget (OMB) did not review this document. We expect the final rule will have minimal costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), requires agencies to consider the impact of regulations on small businesses, small non-profit organizations, and small governmental jurisdictions, unless the Agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities (SEISNOSE). This rule will not have a SEISNOSE.

Unfunded Mandates Reform Act of 1995

This rulemaking does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $140.8 million or more in any 1 year.

Executive Order 12988 (Civil Justice Reform)

This action 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.

Executive Order 13045 (Protection of Children)

FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We determined that this rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

FMCSA analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132. We determined that this rulemaking does not create 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.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal Agency must consider the impact of paperwork and other information collection burdens imposed on the public. FMCSA has determined that no new information collection requirements are associated with the technical amendments to this final rule.

National Environmental Policy Act

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1 the National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, published March 1, 2004 (69 FR 9680), that this action does not have any effect on the quality of the environment. Therefore, this final rule is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6.x of Appendix 2. The CE under paragraph 6.x relates to regulations implementing procedures for the issuance, amendment, revision

and rescission of Federal motor carrier regulations (*e.g.,* the establishment of procedural rules that would provide general guidance on how the agency manages its notice-and-comment rulemaking proceedings, including the handling of petitions for rulemakings, waivers, exemptions, and reconsiderations, and how it manages delegations of authority to carry out certain rulemaking functions.). A Categorical Exclusion Determination is available for inspection or copying in the *Regulations.gov* website listed under **ADDRESSES**.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it has no effect on the environment.

Executive Order 13211 (Energy Effects)

FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We determined that it is not a "significant energy action" under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects

49 CFR Part 385

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping.

49 CFR Part 395

Highway safety, Incorporation by reference, Motor carriers, Reporting and recordkeeping.

■ In consideration of the foregoing, FMCSA amends title 49, Code of Federal Regulations, chapter III, as follows:

PART 385—SAFETY FITNESS PROCEDURES

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 13901–13905, 31133, 31135, 31136, 31137(a), 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88; Sec. 350, Pub. L. 107–87; and 49 CFR 1.73.

■ 2. In § 385.807, revise paragraph (a) to read as follows:

§ 385.807 Notice and issuance of remedial directive.

(a) Following the close of the compliance review described in § 385.805, FMCSA will issue the motor carrier a written notice of remedial directive and proposed determination of unfitness. FMCSA will issue the notice and proposed determination as soon as practicable, but not later than 30 days after the close of the review.

* * * * *

■ 3. In § 385.815, revise paragraph (e) to read as follows:

§ 385.815 Exemption for AOBRD users.

* * * * *

(e) The exemption granted under this section shall not apply to CMVs manufactured on or after June 4, 2012.

PART 395—HOURS OF SERVICE OF DRIVERS

■ 4. The authority citation for part 395 continues to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31151, and 31502; and 49 CFR 1.73.

■ 5. In Appendix A to part 395:

■ a. Revise paragraph 2.2, and

■ b. Remove and reserve paragraph 3.1.5.1 to read as follows:

Appendix A to Part 395—Electronic On-Board Recorder Performance Specifications

* * * * *

2.2 *Wired.* EOBRs must be capable of transferring RODS using the "Universal Serial Bus Specification (Revision 2.0)" (incorporated by reference, see § 395.18). Each EOBR device must implement a single USB compliant interface featuring a Type A connector. The USB interface must implement the Mass Storage class (08h) for driverless operation.

* * * * *

3.1.5.1 [Reserved.]

* * * * *

Issued on: September 7, 2010.

Anne S. Ferro,

Administrator.

[FR Doc. 2010–22736 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register
Vol. 75, No. 176
Monday, September 13, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0891; Directorate Identifier 2009–SW–055–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Models SA330F, SA330G, and SA330J Helicopters

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

ACTION: Notice of proposed rulemaking (NPRM).

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

> While adjusting the position of the pedal unit on a SA 330 helicopter, the copilot set the position beyond the end limit ("tall pilot" position). This resulted in the separation of the pedal adjustment system and the pedals rocking forward.
>
> After investigation, it was determined that the Loctite bond on the "tall pilot" stop nut was damaged, most likely due to aging of the adhesive. The nut came loose and could no longer perform its stop function. The threaded rod of the adjustment system separated from the system.
>
> The separation of the adjustment system, if not corrected, could result in the loss of control of the pedal units, causing the helicopter to begin rotating.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 28, 2010.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Gary B. Roach, Aerospace Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5130; fax: (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0891; Directorate Identifier 2009–SW–055–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency AD No.: 2009–0172–E, dated August 5, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> While adjusting the position of the pedal unit on a SA 330 helicopter, the copilot set the position beyond the end limit ("tall pilot" position). This resulted in the separation of the pedal adjustment system and the pedals rocking forward.
>
> After investigation, it was determined that the Loctite bond on the "tall pilot" stop nut was damaged, most likely due to aging of the adhesive. The nut came loose and could no longer perform its stop function. The threaded rod of the adjustment system separated from the system.
>
> The separation of the adjustment system, if not corrected, could result in the loss of control of the pedal units, causing the helicopter to begin rotating.
>
> For the reasons described above, this Emergency AD requires a one-time functional test and modification (MOD 330A779820.00) of the pedal unit adjustment system.

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

Relevant Service Information

EUROCOPTER has issued Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 6 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $100 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,130, or $355 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EUROCOPTER FRANCE: Docket No. FAA–2010–0891; Directorate Identifier 2009–SW–055–AD.

Comments Due Date

(a) We must receive comments by October 28, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to SA330F, SA330G, and SA330J helicopters, all serial numbers, certificated in any category, equipped with pedal position adjustment system modification (MOD 07.10.304).

Subject

(d) Air Transport Association of America (ATA) Code 67: Rotors Flight Control.

Reason

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

While adjusting the position of the pedal unit on a SA 330 helicopter, the copilot set the position beyond the end limit ("tall pilot" position). This resulted in the separation of the pedal adjustment system and the pedals rocking forward.

After investigation, it was determined that the Loctite bond on the "tall pilot" stop nut was damaged, most likely due to aging of the adhesive. The nut came loose and could no longer perform its stop function. The threaded rod of the adjustment system separated from the system.

The separation of the adjustment system, if not corrected, could result in the loss of control of the pedal units, causing the helicopter to begin rotating.

For the reasons described above, this Emergency AD requires a one-time functional test and modification (MOD 330A779820.00) of the pedal unit adjustment system.

Actions and Compliance

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

(1) Within the next 10 hours time-in-service after the effective date of this AD, do a functional test of the pedal unit adjustment system following paragraph 2.B.1 of EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009.

(2) If any non-conformity is found, before further flight, modify the pedal unit adjustment system following paragraphs 2.B.2, 2.B.3 or 2.B.4, and 2.B.5 of EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009 (MOD 330A779820.00).

(3) If any non-conformity is not found, within 3 months after the effective date of this AD, modify the pedal unit adjustment system following paragraphs 2.B.2, 2.B.3, and 2.B.5 of the EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009 (MOD 330A779820.00).

(4) If half-bushings are not available when complying with paragraph (f)(2) or (f)(3) of this AD, flights are authorized without half-bushings for up to 12 months after the effective date of this AD.

(5) After 3 months after the effective date of this AD, do not install a pedal position adjustment system, unless it has been modified (MOD 330A779820.00) in accordance with the requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Gary B. Roach, Aerospace Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5130; fax: (817) 222–5961. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority

(or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No.: 2009–0172–E, dated August 5, 2009; and EUROCOPTER Emergency Alert Service Bulletin No. 67.18, dated August 3, 2009, for related information.

Issued in Fort Worth, Texas, on August 25, 2010.

Kimberly K. Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–22775 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2010–0669; FRL–9200–5]

Approval and Promulgation of Implementation Plans; Idaho; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Idaho for the purpose of addressing the "good neighbor" provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 $PM_{2.5}$ NAAQS. This SIP revision addresses the requirement that the State of Idaho's SIP have adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport. In this action, EPA is proposing to approve the Idaho Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i) that emissions from Idaho sources do not significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in any other state, interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in any other state, and interfere with measures required in the SIP of any other state under part C of subchapter I of the CAA to prevent significant deterioration of air quality. This action is being taken under section 110 and part C of subchapter I of the Clean Air Act (the Act or CAA).

DATES: Written comments must be received on or before October 13, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2008–0391, by one of the following methods:

A. *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. *E-Mail: R10-Public_Comments@epa.gov.*

C. *Mail:* Donna Deneen, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: AWT–107, Seattle, WA 98101.

D. *Hand Delivery:* U.S. Environmental Protection Agency, Region 10, Attn: Donna Deneen (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, 9th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2010–0669. 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 email. 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 email comment directly to EPA without going through *http://www.regulations.gov,* your email 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 you comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov index.* Although listed in the index, some information, *i.e.,* CBI or other information whose disclosure is restricted by statute, is not publicly available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, (206) 553–6706 or *deneen.donna@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this notice, the words "we", "us", or "our" means the Environmental Protection Agency (EPA).

Table of Contents

I. What proposed action is EPA taking?
II. What is a SIP?
III. What is the background for this proposed action?
IV. What is EPA's evaluation of the State's submission?
A. EPA's Evaluation of Significant Contribution to Nonattainment
1. 1997 $PM_{2.5}$ Nonattainment Areas and Monitoring Data in States Surrounding Idaho
2. 1997 8-Hour Ozone Nonattainment Areas and Monitoring Data in States Surrounding Idaho
3. State Regulatory Provisions
4. Conclusion Regarding Significant Contribution to Nonattainment
B. EPA's Evaluation of Interference With Maintenance
1. Background
2. Idaho's Interference With Maintenance Demonstration
3. EPA's Supplemental Analysis
4. Conclusion Regarding Interference With Maintenance
C. EPA's Evaluation of Interference With PSD Measures in Other States
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. What proposed action is EPA taking?

EPA is proposing to approve a portion of Idaho's Interstate Transport State Implementation Plan (SIP) revision for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS submitted by the Idaho Department of Quality (IDEQ) on June 28, 2010. Specifically, we are proposing to approve the portion of the plan that addresses the following elements of

CAA section 110(a)(2)(D)(i): (1) Significant contribution to nonattainment of these NAAQS in any other state, (2) interference with maintenance of these NAAQS by any other state, and (3) interference with any other state's required measures to prevent significant deterioration (PSD) of its air quality with respect to these NAAQS. IDEQ addressed element (4), interference with any other state's required measures to protect visibility, by referring to its Regional Haze SIP, which will be submitted separately. EPA will take action on the visibility element in a separate action. EPA will also take action on the portion of Idaho's SIP that addresses the 2006 $PM_{2.5}$ NAAQS [1] in a separate action.

Idaho's June 28, 2010, SIP revision replaces a previously submitted section 110(a)(2)(D)(i) SIP revision submitted by IDEQ on January 30, 2007, for the 1997 $PM_{2.5}$ standards. EPA proposed approval of that SIP revision on June 26, 2007 (72 FR 35022), but did not take final action. When Idaho submitted its June 28, 2010, SIP revision, Idaho requested that EPA replace the SIP submitted on January 30, 2007, with the revised SIP submitted on June 28, 2010. In light of Idaho's resubmittal of its Interstate Transport SIP, EPA is withdrawing its June 26, 2007, proposal and is issuing this proposal to approve Idaho's June 28, 2010, SIP revision in its place. Accordingly, EPA will not be responding to comments on the June 26, 2007, proposal. Any person who wishes to comment on EPA's proposed approval of Idaho's SIP revision addressing section 110(a)(2)(D)(i) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ standards should do so at this time.

II. What is a SIP?

Section 110(a) of the CAA requires each state to develop a plan that provides for the implementation, maintenance, and enforcement of the NAAQS. EPA establishes NAAQS under section 109 of the CAA. Currently, the NAAQS address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

The plan developed by a state is referred to as the SIP. The content of the SIP is specified in section 110 of the CAA, other provisions of the CAA, and applicable regulations. SIPs can be extensive, containing state regulations or other enforceable measures and various types of supporting information, such as emissions inventories, monitoring networks, and modeling demonstrations.

A primary purpose of the SIP is to provide the air pollution regulations, control strategies, and other means or techniques developed by the state to ensure that the ambient air within that state meets the NAAQS. However, another important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D). Pursuant to that provision, each state's SIP must contain provisions adequate to prevent emissions that significantly contribute to violations of the NAAQS in any other state, interfere with maintenance in any other state, interfere with any other state's required measures to prevent significant deterioration of its air quality, and interfere with any other state's required measures to protect visibility.

States are required to update or revise SIPs under certain circumstances. One such circumstance is EPA's promulgation of a new or revised NAAQS. Each state must submit these revisions to EPA for approval and incorporation into the federally-enforceable SIP.

III. What is the background for this proposed action?

On July 18, 1997, EPA promulgated new standards for 8-hour ozone and fine particulate matter ($PM_{2.5}$). This action is being taken in response to the promulgation of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. This action does not address the requirements of the 2006 $PM_{2.5}$ NAAQS or the 2008 8-hour ozone NAAQS; those standards will be addressed in a future action.

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within three years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i) which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued its "Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards" (2006 Guidance) for SIP submissions that states should use to address the requirements of section 110(a)(2)(D)(i). EPA developed this guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D) for the 1997 8-hour ozone standards and 1997 $PM_{2.5}$ standards.

On June 28, 2010, we received a SIP revision from the State of Idaho to address the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. The "good neighbor" provisions in section 110(a)(2)(D)(i) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants. In this rulemaking EPA is addressing the first three elements: (1) Significant contribution to nonattainment of these NAAQS in any other state, (2) interference with maintenance of these NAAQS by any other state, and (3) interference with any other state's required measures to prevent significant deterioration (PSD) of its air quality with respect to these NAAQS. Idaho asserts in its SIP submission that its current SIP is adequate to prevent such contribution and interference, and thus no additional controls or revisions are needed with respect to the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. EPA is proposing to find that Idaho's Interstate Transport SIP provisions addressing elements (1), (2), and (3) of section 110(a)(2)(D)(i) are consistent with the requirements of the CAA.

IV. What is EPA's evaluation of the State's submission?

A. EPA's Evaluation of Significant Contribution to Nonattainment

Section 110(a)(2)(D)(i) provides that EPA cannot approve a state's SIP for a new or revised NAAQS unless it contains adequate measures to prohibit emissions from sources within the state from contributing significantly to nonattainment of the NAAQS in another state. EPA's August 2006 Guidance concerning section 110(a)(2)(D)(i) recommended various methods by which states might evaluate whether or not their emissions significantly contribute to nonattainment of the 1997 8-hour ozone or the 1997 $PM_{2.5}$ NAAQS in another state. Among other methods, EPA recommended consideration of available EPA modeling conducted in conjunction with the Clean Air Interstate Rule (CAIR),[2] or in the

[1] The $PM_{2.5}$ standard was revised in 2006. *See* "National Ambient Air Quality Standards for Particulate Matter," at 71 FR 61144, (October 17, 2006).

[2] *See* "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to

Continued

absence of such EPA modeling, consideration of other information such as the amount of emissions, the geographic location of violating areas, meteorological data, or various other forms of information that would be relevant to assessing the likelihood of significant contribution to violations of the NAAQS in another state. The assessment of significant contribution to nonattainment is not restricted to impacts upon areas that are formally designated nonattainment. Consistent with EPA's approach in CAIR and in the Transport Rule Proposal, this impact must be evaluated with respect to monitors showing a violation of the NAAQS (70 FR 25172, May 12, 2005, and 63 FR 57371, October 27, 1998).[3] Furthermore, although relevant information other than modeling may be considered in assessing the likelihood of significant contribution to nonattainment of the 8-hour ozone or $PM_{2.5}$ NAAQS in another state, EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to violations of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in another state.

This proposed approval addresses the significant contribution element for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in several ways. It takes into account Idaho's SIP submission that addressed the significant contribution element for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS by evaluating potential impacts from Idaho sources on 1997 8-hour ozone and 1997 $PM_{2.5}$ nonattainment areas in surrounding states based on a review of meteorological and other characteristics of those areas. The State's SIP submission also relied on provisions in its air quality regulations that address Idaho's authority to address nonattainment issues. In addition to the arguments presented by Idaho to support its demonstration that its SIP satisfies the significant contribution element of the CAA, EPA has supplemented its analysis with monitoring data and other information related to the 1997 $PM_{2.5}$ nonattainment areas identified by Idaho, and has also provided monitoring data and other information for the surrounding states generally. Our evaluation below regarding how Idaho's SIP satisfies the significant contribution element of the CAA is organized as follows. Section 1 addresses the 1997 $PM_{2.5}$ nonattainment areas in surrounding states (including $PM_{2.5}$ monitoring data for those nonattainment areas) and $PM_{2.5}$ monitoring data generally for surrounding states. Section 2 addresses the 1997 8-hour ozone nonattainment areas in surrounding states (including ozone monitoring data for those nonattainment areas) and ozone monitoring data generally for surrounding states. Section 3 addresses Idaho's air quality regulations for both the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS which pertain to Idaho's authority to address nonattainment issues.

1. 1997 $PM_{2.5}$ Nonattainment Areas and Monitoring Data in States Surrounding Idaho

1997 $PM_{2.5}$ Nonattainment Areas

To address whether Idaho sources significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in another state, Idaho reviewed meteorological and other characteristics of any areas designated nonattainment for the 1997 $PM_{2.5}$ NAAQS in surrounding states to determine whether transport of emissions from Idaho significantly contribute to nonattainment in those areas. Relying primarily on technical support documents (TSDs) prepared for EPA's 8-hour ozone and $PM_{2.5}$ NAAQS nonattainment designations, Idaho noted that air stagnation is cited as a major contributing factor to nonattainment in those areas and that under air stagnation conditions there is little to no transport of pollutants over long distances. Idaho also noted that none of the TSDs identified Idaho sources as significant contributors to any 1997 $PM_{2.5}$ nonattainment areas.

As a part of EPA's analysis of whether or not $PM_{2.5}$ emissions from Idaho significantly contribute to nonattainment in another state, EPA reviewed and analyzed information available for the 1997 $PM_{2.5}$ nonattainment areas in states surrounding Idaho. Although significant contribution must be measured not just against nonattainment areas, but also against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient starting point for the analysis. For the 1997 $PM_{2.5}$ NAAQS, Libby, in Lincoln County, Montana is the only designated nonattainment area in any state bordering Idaho.[4] In 2005, EPA designated this area nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. 70 FR 944 (January 5, 2005) and 40 CFR 81.327.

A number of factors provide evidence that Idaho emissions do not significantly contribute to past violations of the 1997 annual $PM_{2.5}$ standards in Libby, Montana. First, in the process of designating Libby nonattainment for both the 1997 $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS, EPA noted the predominantly local origins of $PM_{2.5}$ nonattainment in Libby.[5] [6] Residential wood-burning stoves during the winter-time, when frequent and persistent temperature inversions occurred, were specifically identified as a key source of PM emissions.

Although local sources were believed to predominate in the Libby nonattainment area, EPA specifically considered in the 1997 $PM_{2.5}$ designation process whether Idaho sources contributed to $PM_{2.5}$ nonattainment in Libby. While a nonattainment designation analysis is not the same inquiry that is required under CAA section 110(a)(2)(D), some of the factual findings from that effort are helpful in understanding the potential for interstate transport of pollutants in the Libby area. If there were an area in Idaho from which significant contribution would be most likely, it would arguably be from Bonner and Boundary counties in Idaho. These counties are located in Idaho's panhandle and are the only Idaho counties located to the west of the Libby nonattainment area. Transport winds generally flow across Idaho from west to east, and Libby is directly east of Bonner and Boundary counties. In the process of designating Libby nonattainment for the 1997 $PM_{2.5}$ NAAQS, EPA concluded that there was insufficient data to justify including those two Idaho counties (or any portion thereof) in the Libby nonattainment area.[7] Monitoring data from 1999 through 2009 show that $PM_{2.5}$ design value levels for both Idaho counties have remained below 30 $\mu g/m^3$ or 85 percent of the 1997 $PM_{2.5}$ NAAQS. This is consistent with a conclusion that local sources in Libby were a key

the NO_X SIP Call; Final Rule," at 70 FR 25162 at 25263–69 (May 12, 2005).

[3] *See* Section B(1) of this notice for more history on CAIR and the Transport Rule Proposal. EPA has taken a similar approach in the recent Transport Rule Proposal discussed below.

[4] Libby is in a narrow valley surrounded by mountains 4,000 feet higher than the town. The Rocky Mountain Range to the west of Libby (and east of the Idaho border) reaches summit elevations of 12,000 feet with most summit elevations between 6000 and 7000 feet that act as a barrier to air movement between Idaho and Montana.

[5] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," (for Montana) Chapter 6, pp. 347–352, December 2004.

[6] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," (for Montana) Chapter 4.8.1, pp. 1–15, December 2008.

[7] "Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations," Chapter 6, pp. 347–352, December 2004.

contributor to the area's past nonattainment. Although the predominance of local sources does not rule out the possibility of impacts from interstate transport, this fact taken in conjunction with the mountainous topography of the area, supports a conclusion that Idaho emissions do not contribute significantly to the past NAAQS violations in Libby.

Second, monitoring data from 1999 through 2009 from areas outside of Libby in Montana support a determination that Idaho does not significantly contribute to nonattainment in Libby. At all other sites in Montana, annual $PM_{2.5}$ design value levels have remained below the 15 μg/m^3 nonattainment threshold. Annual $PM_{2.5}$ design values for this period for most of these monitors remained at levels equal to, or less than, two-thirds of the 1997 NAAQS. Even the three highest design values at these monitors were 20 percent below the level of the annual standard.[8] The lower $PM_{2.5}$ levels elsewhere in Montana are evidence that local sources, and not interstate transport, are key contributors to past nonattainment in Libby.

Monitoring data from Idaho likewise supports a finding that Idaho does not significantly contribute to nonattainment elsewhere. In Idaho, annual $PM_{2.5}$ design values from 1999 through 2009 have remained below the 1997 NAAQS. The comparatively lower levels of $PM_{2.5}$ monitored throughout Idaho and elsewhere in Montana are consistent with a conclusion that local sources, and not sources in another state, are the predominant source of $PM_{2.5}$ levels in Libby. The fact that monitors located in Idaho have not registered violations of the 1997 $PM_{2.5}$ NAAQS does not conclusively establish that emissions from Idaho could not contribute in the aggregate to violations in Libby, but this fact combined with the localized nature of the violations in Libby supports the conclusion that sources in Idaho do not significantly contribute to $PM_{2.5}$ levels in Libby. By 2007–2008, the annual $PM_{2.5}$ design values for the Libby nonattainment area itself fell below the levels of the NAAQS. This reduction has been attributed to an effective wood stove replacement program that decreased $PM_{2.5}$ emissions by approximately 59 percent.[9] In other words, even if emissions from Idaho sources were reaching Libby, they would not significantly contribute to violations of the 1997 $PM_{2.5}$ NAAQS because monitoring data demonstrate that Libby is not violating the 1997 $PM_{2.5}$ NAAQS.

Finally, EPA's conclusion that emissions from Idaho do not significantly contribute to nonattainment in Libby, Montana, is further supported by a modeling analysis for monitors in the western United States.[10] This modeling concludes that in 2012 the average design values in Lincoln County, Montana for $PM_{2.5}$ will be below the threshold for consideration as a nonattainment receptor.

The next closest 1997 $PM_{2.5}$ nonattainment area to the state of Idaho is the San Joaquin Valley in California.[11] This nonattainment area is over 300 miles southwest of the closest point on the Idaho border and is on the other side of the Sierra Nevada Mountains. This 400 mile long north-south range of mountains has peaks of more than 14,000 feet which act as a natural barrier to air movement between Idaho and California. In addition, San Joaquin Valley, California, is not in the predominant direction of winds from Idaho. Transport winds across Idaho generally flow from west to east, and not toward the southwest. Given the relatively long distance between Idaho and the San Joaquin Valley, the intervening mountainous topography, and the general west-to-east direction of transport winds across Idaho, EPA believes it is reasonable to conclude that Idaho sources do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in the San Joaquin Valley.

$PM_{2.5}$ Monitoring Data in Other Areas of Surrounding States

As mentioned above, EPA considers not only significant contribution to designated nonattainment areas, but also significant contribution to areas with monitors showing violations of the NAAQS. A review of the most recent three years of monitoring data in EPA's Air Quality System (AQS) for the bordering states of Washington, Oregon, Nevada, Utah, Wyoming and Montana shows there are no monitors violating the 1997 $PM_{2.5}$ NAAQS. Between 1999 and 2009, just two monitors in any of these bordering states violated the 1997 $PM_{2.5}$ NAAQS. Both violations were for the annual NAAQS. The first such monitor is in Libby, Montana, which has not violated the 1997 $PM_{2.5}$ NAAQS since 2005. As discussed previously, EPA believes that existing information supports the conclusion that there is not significant contribution to nonattainment from Idaho sources to this area in Montana. The second is a monitor in Salt Lake City, Utah, which violated the 1997 $PM_{2.5}$ NAAQS at a single monitor in 2004. Since 2004 it has not violated the NAAQS. Taking into account the total weight of all of the factors discussed above, EPA concludes that Idaho does not significantly contribute to 1997 $PM_{2.5}$ NAAQS nonattainment in another state.

2. 1997 Ozone Nonattainment Areas and Monitoring Data in States Surrounding Idaho

1997 8-Hour Ozone Nonattainment Areas

To address whether Idaho sources significantly contribute to nonattainment of the 1997 8-hour ozone standard in another state, Idaho's SIP uses the same approach as it used for the 1997 $PM_{2.5}$ NAAQS. Relying primarily on TSDs prepared for EPA's 8-hour ozone and $PM_{2.5}$ nonattainment designations, Idaho noted that air stagnation is cited as a major contributing factor to nonattainment in those areas and that under stagnant air conditions there is little to no transport of pollutants over long distances. Idaho also noted that none of the TSDs identified Idaho sources as significant contributors to any 1997 8-hour ozone nonattainment area.

EPA also reviewed and analyzed information available for the designated 1997 8-hour ozone nonattainment areas in states surrounding Idaho. Although significant contribution must be measured not just against nonattainment areas, but against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient starting point for the analysis. For the 1997 8-hour ozone NAAQS, the only nonattainment area in states bordering Idaho is Clark County in southern Nevada (Las Vegas area). In 2005, EPA designated this area nonattainment for violations of the 1997 8-hour ozone standard. 69 FR 23858 (April 30, 2004) and 40 CFR 81.329. EPA has evaluated whether emissions from Idaho contribute significantly to the nonattainment of the 8-hour ozone standard in Clark County. Clark County is about 350 miles south of the closest point on the Idaho border. Distance per se is not an obstacle to long range

[8] In 2001, 2002 and 2006, design values for two monitors in Missoula County were 11.1, 11.4 and 11.8 μg/m^3. Computed from AQS monitoring data. 75 FR 16028 (March 31, 2010).

[9] State of Montana, Department of Environmental Quality, "State Implementation Plan-Libby Annual $PM_{2.5}$ Control Plan," submitted to EPA April 1, 2008.

[10] See Section B of this notice for a more complete discussion of the Transport Rule Proposal and EPA's modeling analysis of the western states.

[11] In 2005, EPA designated this area nonattainment for violations of the 1997 and annual $PM_{2.5}$ NAAQS. 70 FR 944 (January 5, 2005), and 40 CFR 81.305.

transport of ozone and/or its precursors, as discussed in the January 30, 2004, notice proposing CAIR (69 FR 4599); NO_X (the primary ozone precursor that was the object of the CAIR transport study) may be transported for long distances, contributing significantly to high ozone concentrations in other states. However, with increasing distance there are greater opportunities for ozone and/or NO_X dispersion and/or removal from the atmosphere due to the effects of winds and chemical sink processes. In this context, one may conclude that the 350 mile distance between Idaho and the Clark County nonattainment area decreases, but does not exclude, the possibility of significant contribution to this area's nonattainment. Another transport factor is wind direction. Clark County, Nevada is south of Idaho and, therefore, is not in the predominant direction of winds from Idaho. Transport winds across Idaho generally flow from west to east, and not toward the south. Given the relatively long distance between Idaho and Clark County, Nevada and the general west-to-east direction of transport winds across Idaho, EPA believes it is reasonable to conclude that Idaho sources do not significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS in Clark County, Nevada.

Ozone Monitoring Data in Other Areas of Surrounding States

As mentioned above, EPA considers not only significant contribution to designated nonattainment areas, but also to areas with monitor readings showing violations of the NAAQS. A review of the most recent monitoring data from EPA's Air Quality System (AQS) for the bordering states of Washington, Oregon, Nevada, Utah, Wyoming and Montana shows no monitors violating for the 1997 8-hour ozone NAAQS. A review of past monitoring data from 1999 through 2008 shows that the only area in any of these border states that violated the 1997 8-hour ozone NAAQS was Salt Lake City, Utah. This area, however, is not currently violating and has not violated the 1997 8-hour ozone NAAQS since a violation occurred at a single monitor in 2007. Observed days of high ozone levels in the Salt Lake City metropolitan area are usually associated with a 'bowl effect' resulting from an inversion that has a stagnant air pollution mass surrounded by the Oquirrh Mountains to the west, the Great Salt Lake to the north, and the Wasatch Range on the east.[12] In light of these considerations, it is unlikely that Idaho makes a significant contribution of ozone and/or ozone precursors in the Salt Lake City area.

In addition, none of the ozone monitors in Idaho have themselves indicated a violation of the 1997 8-hour ozone NAAQS, and Boise, Idaho, the area of Idaho with the highest concentrations of ozone, is almost 300 miles from Salt Lake City. The absence of violations in Idaho itself do not rule out the possibility of transport, but taken in conjunction with other relevant information, this fact helps to support the conclusion that there is no such transport from Idaho to Salt Lake City. Distance per se is also not an obstacle to long range transport of ozone and/or its precursors, as discussed above. However, with increasing distance there are greater opportunities for ozone and/or NO_X dispersion and/or removal from the atmosphere due to the effects of winds and chemical sink processes. In this context, the 300 mile distance between Idaho and the Salt Lake City area reduces but does not exclude the possibility of significant contribution to this area's nonattainment. Taking into account the total weight of all of the factors discussed above, EPA concludes that Idaho does not significantly contribute to 1997 8-hour ozone NAAQS nonattainment in another state.

3. State Regulatory Provisions

In addition to monitoring data providing evidence that Idaho sources do not contribute to nonattainment in any other state, Idaho points to air quality provisions in its regulations that prohibit emissions that contribute significantly to nonattainment. Specifically, the State points to its air quality provisions at IDAPA 58.01.01.203.02 that require that a proposed source's projected emissions will not cause or significantly contribute to a violation of any ambient air quality standard. The state explains that this provision applies to both major and minor sources and that the owner or operator of such a source must demonstrate that the source's projected emissions will not cause or significantly contribute to a violation of any ambient air quality standard. In addition, they point out that the demonstration is not constrained to evaluating impacts solely in Idaho and that all estimates of ambient concentrations must be based on the requirements specified in 40 CFR 51, Appendix W, which look to the point of maximum concentration, not a jurisdictional boundary.

The state also relies on its rules for existing sources at IDAPA 58.01.01.401.03, which provide IDEQ with the authority to require a permit (called a "Tier II permit") if emission rate reductions are necessary to attain any ambient air quality standard. As part of the Tier II permitting process, the facility operator (or responsible official) must demonstrate the source does not cause or significantly contribute to a violation of any ambient air quality standards. The state asserts that it has used this authority in the past as part of a suite of control measures implemented to address nonattainment and other air quality issues and this authority could be used if the state's emissions were significantly contributing to nonattainment in another state. For example, between 2000 and 2003 the state issued fifteen Tier II permits to sources in two PM_{10} nonattainment areas to establish federally-enforceable emission limits on PM_{10} emissions in order to ensure that the PM_{10} NAAQS would be attained and maintained. A summary of these 15 permits, including links to the permits on the Idaho website, is included in the docket for this rulemaking.

Idaho incorporates by reference annually any updates to the NAAQS ensuring that implementation of the regulatory provisions at IDAPA 58.01.01.203.02 and IDAPA 58.01.01.40.03 are implementing the most recently revised NAAQS.

In light of these air quality provisions in Idaho's regulations and evidence that Idaho has used these air quality provisions to address nonattainment and other air quality issues in the past, EPA believes that in this case these regulatory provisions provide additional support for our conclusion that emissions from Idaho sources do not significantly contribute to nonattainment in any other state and that Idaho has the ability to address nonattainment if, in the future, the state's emissions significantly contribute to nonattainment of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in another state.

4. Conclusion Regarding Significant Contribution to Nonattainment

The data and weight of the evidence analysis presented above support EPA's conclusion that the Idaho Interstate Transport SIP (submitted on June 28, 2010) is adequate to ensure that emissions from Idaho do not significantly contribute to nonattainment in any other state for the

[12] Approval and Promulgation of State Implementation Plans; State of Utah; Interstate Transport of Pollution and Other Revisions (73 FR 16543, March 28, 2008).

1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of element (1) of CAA section 110(a)(2)(D)(i)

B. EPA's Evaluation of Interference With Maintenance

1. Background

The second element of CAA section 110(a)(2)(D)(i) requires that a state's SIP must prohibit any source or other type of emissions activity in the state from emitting pollutants that would "interfere with maintenance" of the applicable NAAQS in any other state. The CAA does not specifically mandate how interference with maintenance is to be determined. Therefore, EPA has interpreted this term in past regulatory actions, such as the 1998 NO_X SIP Call, in which EPA took action to remediate emissions of NO_X that significantly contributed to nonattainment, or interfered with maintenance of, the then applicable ozone NAAQS through interstate transport of NO_X and the resulting ozone.[13] The NO_X SIP Call was the mechanism through which EPA evaluated whether or not the NO_X emissions from sources in certain states had such prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions to eliminate the NO_X emissions, whether through participation in a regional cap and trade program or by other means.

After promulgation of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA again recognized that regional transport was a serious concern throughout the eastern United States and therefore developed the 2005 CAIR to address emissions of SO2 and NO_X that exacerbate ambient ozone and $PM_{2.5}$ levels in many downwind areas through interstate transport.[14] Within CAIR, EPA likewise interpreted the term "interfere with maintenance" as part of the evaluation of whether or not the emissions of sources in certain states had such impacts on areas that EPA determined would either be in violation of the NAAQS, or would be in jeopardy of violating the NAAQS, in a modeled future year unless action were taken by upwind states to reduce SO2 and NO_X emissions. Through CAIR, EPA again required states that had such interstate impacts to adopt substantive SIP revisions to eliminate the SO2 and NO_X emissions, whether through participation in a regional cap and trade program or by other means.

EPA's 2006 Guidance addressed CAA section 110(a)(2)(D) requirements for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. For those states subject to CAIR, EPA indicated that compliance with CAIR would meet the two requirements of section 110(a)(2)(D)(i)(I) for these NAAQS. For states not within the CAIR region, EPA recommended that states evaluate whether or not emissions from their sources would "interfere with maintenance" in other states, following the conceptual approach adopted by EPA in CAIR. After recommending various types of information that could be relevant for the technical analysis to support the SIP submission, such as the amount of emissions and meteorological conditions in the state, EPA further indicated that it would be appropriate for the state to assess impacts of its emissions on other states using considerations comparable to those used by EPA "in evaluating significant contribution to nonattainment in the CAIR."[15] EPA did not make specific recommendations for how states should assess "interfere with maintenance" separately, and discussed the first two elements of section 110(a)(2)(D) together without explicitly differentiating between them.

In 2008, however, the U.S. Court of Appeals for the DC Circuit found that CAIR and the related CAIR federal implementation plan were unlawful.[16] Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR. The court noted that "EPA gave no independent significance to the 'interfere with maintenance' prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance."[17] EPA's approach, the court reasoned, would leave areas that are "barely meeting attainment" with "no recourse" to address upwind emissions sources.[18] The court therefore concluded that a plain language reading of the statute requires EPA to give independent meaning to the interfere with maintenance requirement of section 110(a)(2)(D) and that the approach used by EPA in CAIR failed to do so.

In addition to affecting CAIR directly, the court's decision in the North Carolina case indirectly affects EPA's recommendations to states in the 2006 Guidance with respect to the interfere with maintenance element of section 110(a)(2)(D) because the agency's guidance suggested that states use an approach comparable to that used by EPA in CAIR. States such as Idaho have made SIP submissions that rely upon the recommendations in EPA's 2006 Guidance. Given the court decision on CAIR in the interim, however, EPA believes that it is necessary to evaluate these state submissions for section 110(a)(2)(D) in such a way as to assure that the interfere with maintenance element of the statute is given independent meaning and is appropriately evaluated using the types of information that EPA recommended in the 2006 Guidance. To accomplish this, EPA believes it may be necessary to supplement the technical analysis provided the state in order to adequately evaluate the submissions with the respect to the interfere with maintenance element of section 110(a)(2)(D).

EPA has recently proposed a new rule to address interstate transport pursuant to section 110(a)(2)(D), the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (Transport Rule Proposal), in order to address the judicial remand of CAIR.[19] As part of the Transport Rule Proposal, EPA specifically reexamined the section 110(a)(2)(D) requirement that emissions from sources in a state must not "interfere with maintenance" of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. In the proposal, EPA developed an approach to identify areas that it predicts to be close to the level of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS, and therefore at risk to become nonattainment for these NAAQS unless emissions from sources in other states are appropriately controlled. This approach starts by identifying those specific geographic areas for which further evaluation is appropriate, and differentiates between areas where the concern is with interference with maintenance, rather than with significant contribution to nonattainment.

As described in more detail below, EPA's analysis evaluates data from existing monitors over three overlapping three year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007), as well as

[13] *See,* 63 FR 57356 (October 27, 1998). EPA's general approach to section 110(a)(2)(D) was upheld in *Michigan* v. *EPA, 213 F.3d 663* (D.C. Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA's approach to interference with maintenance in the NO_X SIP Call was not explicitly reviewed by the court. *See, North Carolina* v. *EPA, 531 F.3d 896, 907*–09 (D.C. Cir. 2008).

[14] *See,* 70 FR 25162 (May 12, 2005).

[15] 2006 Guidance at page 5.

[16] *See, North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Circuit 2008).

[17] Id. 531, F.3d at 909.

[18] Id.

[19] *See* "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone," 75 FR 45210 (August 2, 2010).

air quality modeling data, in order to determine which areas are predicted as likely to be violating the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in 2012, and which areas are predicted to potentially have a difficulty with maintaining attainment as of that date. In essence, if an area's projected data for 2012 indicates that it would be violating the NAAQS based on the average of these three overlapping periods, then this monitor location is appropriate for comparison for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D). If, however, an area's projected data indicate that it would be violating the NAAQS based on the highest single period, but not over the average of the three periods, then this monitor location is appropriate for comparison for purposes of the interfere with maintenance element of the statute.[20]

By this method, EPA has identified those areas with monitors that are appropriate "maintenance sites" or maintenance "receptors" for evaluating whether the emissions from sources in another state could interfere with maintenance in that particular area. EPA then uses other analytical tools to examine the potential impacts of emissions from upwind states on these maintenance sites in downwind states. EPA believes that this new approach for identifying those areas that are predicted to have maintenance problems is appropriate to evaluate the section 110(a)(2)(D) SIP submission of a state for the interfere with maintenance element.[21] EPA's 2006 Guidance did not provide this specific recommendation to states, but in light of the court's decision on CAIR, EPA will itself follow this approach in acting upon the Idaho submission.

As explained in the 2006 Guidance, EPA does not believe that section 110(a)(2)(D) SIP submissions from all states necessarily need to follow precisely the same analytical approach of CAIR or the Transport Rule Proposal. In the 2006 Guidance, EPA stated that: "EPA believes that the contents of the SIP submission required by section 110(a)(2)(D) may vary, depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily affects the contents of the required submission."[22] EPA also indicated in the 2006 Guidance that it did not anticipate that sources in states outside the geographic area covered by CAIR were significantly contributing to nonattainment, or interfering with maintenance, in other states.[23] As noted in the Transport Rule Proposal, EPA continues to believe that the more widespread and serious transport problems in the eastern United States are analytically distinct.[24] For the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In the Transport Rule Proposal, EPA did not calculate interstate ozone or $PM_{2.5}$ contributions to or from western states.

Accordingly, EPA believes that section 110(a)(2)(D) SIP submissions for states outside the geographic area of the Transport Rule Proposal may be evaluated using a "weight of the evidence" approach that takes into account available relevant information, such as that recommended by EPA in the 2006 Guidance for states outside the area affected by CAIR. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

2. Idaho's Interference With Maintenance Demonstration

To show that Idaho emissions, as controlled under its SIP, do not interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in another state, Idaho's submittal analyzed several types of factors to support its assertion. First, for its $PM_{2.5}$ analysis, Idaho relied on information from the Western Regional Air Partnership (WRAP) Technical Support System (TSS). The WRAP TSS is a system developed in a collaborative effort by state and tribal governments and federal agencies to provide the tools needed to comply with the federal Regional Haze Rule. Idaho used it to provide general insight on how Idaho sources influence $PM_{2.5}$ concentrations in Class I areas in surrounding states. For the 8-hour ozone NAAQS, Idaho evaluated NO_X and VOC emissions data from Idaho sources. These emissions data were evaluated to understand how Idaho's emissions sources may contribute to ozone impacts in surrounding states. The WRAP TSS results provided in Idaho's submittal to address the 1997 $PM_{2.5}$ standard and Idaho's evaluation of NO_X and VOC emissions data from Idaho sources to address the 1997 8-hour ozone NAAQS are discussed later.

Idaho also relied on information about air stagnation conditions in other states to show that Idaho sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. Idaho argued that stagnant air conditions are associated with weak transport and were cited in technical support documents for the 8-hour ozone and $PM_{2.5}$ designations as a major contributing factor to poor air quality in surrounding states. Idaho also identified its state air quality regulations to demonstrate both that Idaho can, and does, work with other states and tribes to ensure that an Idaho activity would not interfere with maintenance by any other State with respect to the NAAQS.

Idaho also relies on its permitting rules discussed earlier that not only require for new sources a demonstration that the proposed source's emissions will not cause or significantly contribute to a violation of any ambient air quality standard, but also specifically require for existing sources an operating permit if emission rate reductions are necessary to attain or maintain any ambient air quality standard. It also points out that neither of these required demonstrations is limited to an analysis of impacts solely in Idaho. In light of these provisions and evidence that Idaho has used these air quality provisions in the

[20] A memorandum in the docket for this action provides the information EPA used in order to identify monitors that are receptors for evaluation of interference with maintenance for certain states in the western United States. See, Memorandum from Brian Timin of EPA's Office of Air Quality Planning and Standards, Air Quality Modeling Group entitled "Documentation of Future Year Ozone and Annual PM2.5 Design Values for Western States" (August 2010) (Timin Memo).

[21] To begin this analysis, EPA first identifies all monitors projected to be in nonattainment or, based on historic variability in air quality, projected to have maintenance problems in 2012. The "problem" is that these maintenance areas are at risk not to stay in attainment because they are so close to the level of the 1997 ozone and $PM_{2.5}$ NAAQS that minor variations in weather or emissions could result in violations of the NAAQS in 2012.

[22] 2006 Guidance at 4.

[23] Id. at 5.

[24] See, Transport Rule Proposal, 75 FR 45210 (August 2, 2010) at page 45227.

past, as discussed in the section on significant contribution (section IV.A), EPA believes that in this case these regulatory provisions support our conclusion that Idaho does not interfere with maintenance in any other state and that Idaho has the ability to address interference with maintenance if in the future the state's emissions interfere with maintenance of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in another state.

3. EPA Supplemental Analysis

On July 6, 2010, the EPA proposed a rulemaking proposal (the Transport Rule Proposal) in response to the judicial remand of CAIR. The Transport Rule Proposal includes a new approach to determine whether emissions from a state interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in other states. EPA is using a comparable approach to that of the Transport Rule Proposal in this action in order to evaluate whether emissions from Idaho sources interfere with maintenance of these NAAQS in other states.

In the Transport Rule Proposal, EPA projected future concentrations of ozone and $PM_{2.5}$ to identify areas that are expected to be out of attainment with the NAAQS or to have difficulty maintaining compliance with the NAAQS in 2012. These areas are referred to as nonattainment and maintenance receptors, respectively. These nonattainment and maintenance receptors are based on projections of future air quality at existing ozone and $PM_{2.5}$ monitoring sites in those locations. EPA then used these sites as the receptors for examining the contributions of emissions from sources located in upwind states to nonattainment and maintenance problems at these monitoring locations. Monitoring data was obtained from AQS.

For the $PM_{2.5}$ NAAQS EPA evaluated concentrations of both the annual $PM_{2.5}$ NAAQS and the 24-hour $PM_{2.5}$ NAAQS. The 1997 annual $PM_{2.5}$ NAAQS is met when the 3-year average of the annual mean concentration is 15.0 micrograms per cubic meter (μg/m^3) or less. The 3-year average annual mean concentration is computed at each site by averaging the daily Federal Reference Method (FRM) samples by quarter, averaging these quarterly averages to obtain an annual average, and then averaging the three annual averages to get the design value. The 2006 24-hour $PM_{2.5}$ NAAQS is met when the 3-year average of the annual 98th percentile $PM_{2.5}$ concentrations is 35 μg/m^3 or less. The 1997 24-hour $PM_{2.5}$ NAAQS is met when the 3-year average of the annual 98th percentiles is 65 μg/m^3 or less. The 3-year average mean 98th percentile concentration is computed at each site by averaging the 3 individual annual 98th percentile values at each site. The 3-year average 98th percentile concentration is referred to as the 24-hour average design value. In this action, EPA is only evaluating whether Idaho's emissions impact other states' ability to maintain the 1997 annual and 24-hour $PM_{2.5}$ NAAQS and the 1997 8-hour ozone NAAQS, because those are the NAAQS at issue in this section 110(a)(2)(D) SIP submission. In later actions, the state and EPA will evaluate the impacts of interstate transport from emissions from Idaho sources with respect to other NAAQS.

For the ozone NAAQS, EPA evaluated concentrations relevant to the 1997 8-hour ozone NAAQS. The level of the 1997 8-hour ozone NAAQS is 0.08 parts per million (ppm). The 8-hour ozone standard is met if the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration is less than or equal to 0.08 ppm (*i.e.,* less than 0.085 ppm based on the rounding convention in 40 CFR part 50 Appendix I). This 3-year average is referred to as the "design value."

To project future ozone and annual $PM_{2.5}$ design values, EPA projected future ozone values based on an average of three design value periods which include the years 2003–2007 (*i.e.,* design values for 2003–2005, 2004–2006, and 2005–2007). The average of the three design values creates a "5-year weighted average" value. The 5-year weighted average values were then projected to the future years that were analyzed for the Transport Rule Proposal.[25] [26] EPA used the 5-year weighted average concentrations to project concentrations anticipated in 2012 to determine which monitoring sites are expected to be nonattainment in this future year. EPA also projected 2012 design values based on each of the three year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007). The highest projection is referred to as the "maximum design value" and gives an indication of potential variability in future projections due to differences in actual meteorology and emissions from what was modeled.

EPA identified those sites that are projected to be attainment based on the 5-year weighted average design value, but that have a maximum design value (based on a single three year period) that exceeds the NAAQS, as maintenance sites because EPA anticipates that there will be more difficulty in maintaining attainment of the NAAQS at these locations if there are adverse variations in meteorology or emissions. These projected maintenance sites are the ones that EPA has used to determine if emissions from Idaho sources potentially interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 annual $PM_{2.5}$ NAAQS in other states in this action.

For the annual $PM_{2.5}$ NAAQS, EPA identified from the modeling analyses conducted for the Transport Rule Proposal the following sites as maintenance receptors: A site in Cook County, Illinois in the Chicago area; a site in Harris County, Texas, in the Houston/Galveston/Brazoria area. From the modeling analysis conducted for states not included in the Transport Rule Proposal, EPA identified only sites in southern California. Based on recent monitoring data (2007–2009 design values that are under final EPA review), the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (not including California) is 50 μg/m^3, which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 μg/m^3.[27] Therefore, outside of California, there are no areas that we would expect to have difficulty in maintaining the 1997 24-hour $PM_{2.5}$ NAAQS.

From the modeling analyses conducted for the Transport Rule Proposal, EPA identified a number of maintenance sites or receptors for the 1997 8-hour ozone NAAQS: Several sites in the Texas area and other sites in Georgia, Pennsylvania, New York and Connecticut.[28] For the modeling analysis conducted for states not included in the Transport Rule Proposal (*i.e.* states not included fully in the 12 km Transport Rule Proposal modeling domain), EPA identified several maintenance sites in southern and central California using available 36 km modeling.[29] The 12 km Transport Rule Proposal modeling domain extends from Texas northward to North Dakota and eastward from the Rocky Mountains to

[25] *See,* the Transport Rule Proposal at 75 FR 45210 (August 2, 2010).

[26] Additional information concerning these weighted averages is provided in the docket in the Timin Memo.

[27] Data undergoing review from EPA's Air Quality System which is EPA's repository of ambient air quality data. (*http://www.epa.gov/ttn/airs/airsaqs/).*

[28] Transport Rule Proposal, 75 FR 45210, (August 2, 2010), pages 45253–45270, and Timin Memo.

[29] The Transport Rule Proposal identifies nonattainment and maintenance receptors in the Eastern U.S. It does not include modeling results for the West. The Timin Memo documents further evaluation of the 2012 modeling to identify nonattainment and maintenance receptors in the West.

the east coast and includes 37 states and the District of Columbia.

Significantly, for both the 1997 $PM_{2.5}$ NAAQS and the 1997 8-hour ozone NAAQS, EPA's analysis did not identify any maintenance receptors in the states that border Idaho (Washington, Oregon, Nevada, Utah, Wyoming and Montana).

(a) Interfere With Maintenance Evaluation for the $PM_{2.5}$ NAAQS

For the 1997 $PM_{2.5}$ NAAQS, the closest maintenance receptor site identified by the Transport Rule Proposal was in Cook County, Illinois. Cook County, Illinois is over 1000 miles east of the closest point on Idaho's border, and on the other side of the Rocky Mountains. Given the relatively long distance and the intervening mountainous topography between Idaho and Cook County, EPA believes it is reasonable to conclude that there is a very low probability that Idaho sources interfere with maintenance in that area. It is also reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance sites east of Cook County.

In the west, the closest maintenance receptor to Idaho was in Fresno County, California. Fresno County is located almost 400 miles southwest of the closest point on the Idaho border and on the other side of the Sierra Nevada Mountains, which act as a natural barrier to air movement between Idaho and California. In addition, Fresno County, located in southern California, is not in the predominant direction of winds from Idaho. As noted earlier, transport winds across Idaho generally flow from west to east, and not toward the southwest. Given the relatively long distance between Idaho and southern California, the intervening mountainous topography, and the general direction of west-to-east transport winds across Idaho, EPA concludes that there is no reasonable basis to conclude that Idaho sources interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in those areas. It is likewise reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance sites in California. Based on EPA modeling and all of these factors taken together, EPA believes it is reasonable to conclude that Idaho emissions under the SIP do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.

This conclusion is consistent with the information and analysis Idaho provided in its SIP submittal regarding interference with maintenance of the 1997 $PM_{2.5}$ NAAQS. With respect to $PM_{2.5}$, Idaho used the WRAP TSS tools to provide general insight on how Idaho sources influence $PM_{2.5}$ concentrations in surrounding states and to conclude that Idaho sources did not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state. Due to the limitations and purpose of the WRAP TSS, Idaho only evaluated impacts on Class I areas in surrounding states using these tools. Because EPA's analysis did not predict any of these Class I areas to have a difficulty with maintaining attainment of the 1997 $PM_{2.5}$ NAAQS, any impact Idaho might have on those areas would not, by definition, interfere with maintenance. Therefore, further evaluation of Idaho's analysis of $PM_{2.5}$ impacts on those areas is unnecessary.

(b) Interfere With Maintenance Evaluation for the 8-Hour Ozone NAAQS

For the 1997 8-hour ozone NAAQS, the closest maintenance receptor site to the east of Idaho was the Dallas-Ft Worth area in Texas. Dallas-Ft Worth is located over 1,000 miles southeast of the closest point on Idaho's border and on the other side of the Rocky Mountains. Given the relatively long distance and the intervening mountainous topography between Idaho and Dallas-Ft Worth, it is reasonable to conclude that Idaho sources do not interfere with maintenance in the Dallas-Ft Worth area. It is also reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance sites elsewhere further east or south of Dallas-Ft Worth.

In the west, the closest maintenance receptor to Idaho was in Nevada County, California. Nevada County is almost 300 miles southwest of the closest point on Idaho's border and located on the other side of the Sierra Nevada Mountains, which act as a natural barrier to air movement between Idaho and California. In addition, Nevada County is in central California and is not in the predominant direction of transport winds. As noted earlier, transport winds across Idaho generally flow from west to east. Although westerly winds are not always the case, meteorological data show that transport winds in Idaho tend to be southerly or westerly during hot and stagnant weather conditions conducive to ozone formation in California. Given the relatively long distance between Idaho and central California, the intervening mountainous topography, and the general direction of west-to-east transport winds across Idaho, EPA believes it is reasonable to conclude that Idaho sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in Nevada County, California. It is also reasonable to conclude that Idaho emissions would not have such impacts at other identified maintenance receptor sites elsewhere in central or southern California. Based on all of these factors taken together, EPA believes it is reasonable to conclude that Idaho emissions do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state.

This conclusion is consistent with the information Idaho provided in its SIP submittal regarding interference with maintenance of the 1997 8-hour ozone NAAQS. For this element for the 8-hour ozone NAAQS, Idaho evaluated NO_X and VOC emissions data to understand how Idaho's emissions sources may contribute to ozone impacts in surrounding states and to conclude that Idaho sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other states. Because EPA modeling did not predict any of the areas in states surrounding Idaho to have difficulty with maintaining attainment of the 8-hour ozone NAAQS, any impact Idaho might have on those areas would not, by definition, interfere with maintenance. Therefore, further evaluation of Idaho's analysis of ozone impacts on those areas is unnecessary.

4. Conclusion Regarding Interference With Maintenance

The data and weight of evidence analysis presented above support the conclusion that the Idaho Interstate Transport SIP (submitted on June 28, 2010) is adequate and that emissions from Idaho do not interfere with maintenance in any other state for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of element (2) of CAA section 110(a)(2)(D)(I).

C. EPA's Evaluation of Interference With PSD Measures in Other States

The third element of section 110(a)(2)(D)(i) requires a SIP to contain adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. EPA's 2006 Guidance made recommendations for SIP submissions to meet this requirement with respect to both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.

EPA believes that Idaho's submission is consistent with the 2006 Guidance, when considered in conjunction with PSD program revisions that EPA proposed to approve on March 18, 2010 (75 FR 13058). EPA's proposed approval of Idaho's SIP for purposes of meeting the requirements of section 110(a)(2)(D)(i)(II) is contingent upon the final approval of the PSD program

revisions in the form specified in EPA's proposed approval, referenced above. The State's submittal indicates in Section 4, "Interfere with Prevention of Significant Deterioration of Air Quality," that the State's SIP provisions include an EPA-approved PSD program. Idaho's regulations for its PSD program were last approved by EPA and made part of the SIP on January 16, 2003 (68 FR 2217), 40 CFR 52.670, effective February 18, 2003. On March 18, 2010, EPA proposed to approve Idaho's PSD rule revisions incorporating into the State's rules the provisions of EPA's PSD requirements as of July 1, 2008, including the November 29, 2005, Phase 2 rule for the 1997 8-hour ozone NAAQS (70 FR 71612), and the May 16, 2008, $PM_{2.5}$ Implementation Rule (73 FR 28321) for the 1997 $PM_{2.5}$ NAAQS. We anticipate taking final action approving Idaho's PSD rule revisions before taking final action on this interstate transport proposal. Therefore, EPA proposes to approve this SIP provision as adequate for purposes of section 110(a)(2)(D)(i)(II) if EPA has taken final action to approve the revisions to Idaho's PSD requirements that are consistent with our proposed action.

EPA believes that the PSD revision for the 1997 8-hour ozone NAAQS that makes NO_X a precursor for ozone for PSD purposes and the PSD revision for the 1997 $PM_{2.5}$ NAAQS that makes SO_2 and NO_X precursors for $PM_{2.5}$ for PSD purposes, taken together with the revised PSD SIP that EPA proposed to approve on March 18, 2010, and the Interstate Transport SIP that EPA is proposing to approve in this action, satisfy the requirements of the third element of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. That is, these provisions ensure that there will be no interference with any other state's required PSD measures because Idaho's SIP, as proposed for approval in this action along with the March 18, 2010 proposed action on the revised PSD rules, will meet current CAA requirements for PSD.

V. Proposed Action

In light of the data and the weight of the evidence analysis presented above, EPA is proposing to approve revisions to the Idaho SIP, submitted on June 28, 2010, which adequately demonstrate that for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, air pollutant emissions from sources within Idaho do not (1) significantly contribute to nonattainment of the NAAQS in any other state, (2) interfere with maintenance of the NAAQS by any other state, and (3) interfere with any other state's required measures to prevent significant deterioration of its air quality, as required by section 110(a)(2)(D)(i).

As noted previously, EPA will address element (4), interference with any other state's required measures to protect visibility, in a separate action. EPA will also take action on the portion of Idaho's SIP that addresses the 2006 $PM_{2.5}$ NAAQS in a separate action.

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: September 2, 2010.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2010–22773 Filed 9–10–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AA74

National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Through this proposed rule, the Secretary proposes to change the Vaccine Injury Table (Table) to create distinct and separate listings for hepatitis A, trivalent influenza, meningococcal, and human papillomavirus (HPV) vaccines. The Table includes a list of covered vaccines under the National Vaccine Injury Compensation Program (VICP). The VICP provides a system of no-fault compensation for certain individuals who have been injured by covered childhood vaccines. This proposed rule is technical in nature. The four categories of vaccines described in this notice are already covered vaccines under the VICP (starting in 2004) and are currently listed in a placeholder category (box XIII) in the Table. This document proposes to list these vaccines as separate categories on the Table, with no associated injuries noted at this time, in order to make the Table more clear to the public.

DATES: Comments on this proposed rule must be submitted by March 14, 2011. A public hearing on this proposed rule will be held before the end of the public comment period. A separate notice will be published in the **Federal Register** to provide the details of this hearing.

ADDRESSES: You may submit comments, identified by the Regulatory Information Number (RIN) 0907–AA74, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: gevans@hrsa.gov.* Include RIN 0907–AA74 in the subject line of the message.
- *Mail:* Geoffrey Evans, M.D., Director, Division of Vaccine Injury Compensation, Healthcare Systems Bureau, Health Resources and Services Administration, Room 11C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Instructions: All submissions received must include the agency name and RIN for this rulemaking. All comments received will be available for public inspection and copying without charge, including any personal information provided, at Parklawn Building, 5600 Fishers Lane, Room 11C–26, Rockville, Maryland 20857, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Geoffrey Evans, M.D. at the mail or e-mail address above or by telephone at (301) 443–6593.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986, Title III of Public Law 99–660, as amended (42 U.S.C. 300aa–10 *et seq.*), established the National Vaccine Injury Compensation Program (VICP) for persons found to be injured by vaccines. Under this Federal program, petitions for compensation are filed with the United States Court of Federal Claims (Court). The Court, acting through special masters, makes findings as to eligibility for, and amount of, compensation. In order to gain entitlement to compensation under Title XXI of the Public Health Service (PHS) Act for a covered vaccine, a petitioner must establish a vaccine-related injury or death, either by proving: (1) That the first symptom of an injury/condition, as defined by the Vaccine Injury Table's (Table's) Qualifications and Aids to Interpretation (QAI), occurred within the time period listed on the Table (copy of the Table can be found at *http://www.hrsa.gov/vaccinecompensation*), and is therefore the injury or death presumed to be caused by a vaccine (unless another cause is found); or (2) proof of vaccine causation, if the injury/condition is not on the Table or did not meet the QAIs or the time frame period specified on the Table.

The statute authorizing the VICP provides for the inclusion of additional vaccines in the VICP when they are recommended by the Centers for Disease Control and Prevention (CDC) for routine administration to children. *See* section 2114(e)(2) of the Public Health Service (PHS) Act, 42 U.S.C. 300aa–14(e)(2). Consistent with section 13632(a)(3) of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), the regulations governing the VICP provide that such vaccines will be included in the Table as of the effective date of an excise tax to provide funds for the payment of compensation with respect to such vaccines. *See* 42 CFR 100.3(c)(5). The statute authorizing the VICP also authorizes the Secretary to create and modify a list of injuries, disabilities, illnesses, conditions, and deaths (and their associated time frames) associated with each category of vaccines included on the Table. *See* sections 2114(c)(3) and 2114(e)(2) of the PHS Act, 42 U.S.C. 300aa–14(c)(3) and 300aa–14(e)(2).

The prerequisites for adding the hepatitis A, trivalent influenza, meningococcal, and human papillomavirus (HPV) vaccines to the VICP have already occurred. The Secretary previously published notices announcing that each of these categories of vaccines is covered under the VICP (under the Table's provisional category) and explaining that the Secretary planned on adding these vaccines as separate categories to the Table through rulemaking, as proposed in this notice. On December 1, 2004, the Secretary published a notice in the **Federal Register** announcing that hepatitis A vaccines were covered under the VICP, with an effective date of December 1, 2004. 69 FR 69945. On April 12, 2005, the Secretary published a notice in the **Federal Register** announcing that trivalent influenza vaccines were covered under the VICP, with an effective date of July 1, 2005. 70 FR 19092. On April 20, 2007, the Secretary published a notice in the **Federal Register** announcing that meningococcal vaccines and human papillomavirus vaccines were covered under the VICP, with an effective date of February 1, 2007. 72 FR 19937.

Although the vaccines described in this notice are officially covered by the VICP, their placement in the provisional box XIII, rather than as distinct and separate listings, has sometimes led to confusion regarding their coverage status. We propose to add these four vaccines in their own separate categories to the Table in order to help the public identify clearly that these vaccines are covered by the VICP.

To date, the Secretary has not identified any illness, disease, injury, or condition caused by these four vaccines. For this reason, the Secretary proposes adding these four categories of vaccines to the Table with "[n]o condition specified." If the Secretary learns of any such illness, disease, injury, or condition, she would consider amending the Table. The Secretary views this proposed rule as technical in nature because it will, if implemented, move the four categories of vaccine described in this notice from the placeholder category (category XIII) to separate and distinct listings on the Table with no associated Table injuries. If implemented, the proposals in this rule would not change the fact that these four categories of vaccine are covered under the VICP and will not change the rights of any current or potential VICP petitioners. The Advisory Commission on Childhood Vaccines (ACCV) voted unanimously to approve this proposal at its December 4, 2009 meeting.

Economic and Regulatory Impact

Executive Order 12866, as amended by Executive Orders 13258 and 13422, directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety, distributive, and equity effects). In addition, under the Regulatory Flexibility Act, if a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of a rule on small entities and analyze regulatory options that could lessen the impact of the rule. Executive Order 12866, as amended by Executive Orders 13258 and 13422, requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations which are "significant" because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Secretary has determined that no resources are required to implement the requirements in this proposed rule. Therefore, in accordance with the

Regulatory Flexibility Act of 1980 (RFA), and the Small Business Regulatory Enforcement Fairness Act of 1996, which amended the RFA, the Secretary certifies that this proposed rule will not, if implemented, have a significant impact on a substantial number of small entities.

The Secretary has also determined that this proposed rule does not meet the criteria for a major rule as defined by Executive Order 12866, as amended by Executive Orders 13258 and 13422, and would have no major effect on the economy or Federal expenditures. The Secretary has determined that this proposed rule is not a "major rule" within the meaning of the statute providing for Congressional Review of Agency Rulemaking, 5 U.S.C. 801.

Similarly, it will not have effects on State, local, and tribal governments and on the private sector such as to require consultation under the Unfunded Mandates Reform Act of 1995.

The Secretary has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." This rule would not "have substantial direct effects on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The proposals made in this notice of proposed rulemaking, if implemented, would not adversely affect the following family elements: Family safety, family stability, marital commitment; parental rights in the education, nurture and supervision of their children; family functioning, disposable income, or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999.

Impact of the New Rule

This proposed rule is technical in nature. Because the vaccines being added to the Table as separate categories are already included on the Table under Category XIII, this Table will have no effect on current or potential petitioners other than to help clarify which vaccines are covered by the VICP. If implemented, the proposals made in this notice would not prevent otherwise eligible individuals with claims of injuries or deaths allegedly resulting from the hepatitis A, trivalent influenza, meningococcal and human papillomavirus (HPV) vaccines from filing claims with the VICP and would not otherwise affect such petitioners.

Paperwork Reduction Act

This proposed rule does not have any information collection requirements.

Dated: May 12, 2010.

Mary Wakefield,

Administrator, Health Resources and Services Administration.

Approved: June 8, 2010.

Kathleen Sebelius,

Secretary.

List of Subjects in 42 CFR Part 100

Biologics, Health insurance, and Immunization.

Accordingly, 42 CFR part 100 is proposed to be amended as set forth below:

PART 100—VACCINE INJURY COMPENSATION

1. The authority citation for 42 CFR part 100 continues to read as follows:

Authority: Secs. 312 and 313 of Pub. L. 99–660, 100 Stat. 3779–3782 (42 U.S.C. 300aa–1 note); sec. 2114(c) and (e) of the PHS Act (42 U.S.C. 300aa–14(c) and (e)); sec. 2115(a)(3)(B) of the PHS Act (42 U.S.C. 300aa–15(a)(3)(B)); sec. 904(b) of Pub. L. 105–34, 111 Stat. 873; sec. 1503 of Pub. L. 105–277, 112 Stat. 2681–741; and sec. 523(a) of Pub. L. 106–170, 113 Stat. 1927–1928.

2. Amend § 100.3 by revising the Vaccine Injury Table following paragraph (a), revising paragraph (c) (1), redesignating paragraph (c) (5) as paragraph (c) (8) and revising newly designated paragraph (c) (8), and adding new paragraphs (c) (5), (c) (6), and (c) (7), to read as follows:

§ 100.3 Vaccine injury table

(a) * * *

VACCINE INJURY TABLE

Vaccine	Illness, disability, injury or condition covered	Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration
I. Vaccines containing tetanus toxoid (e.g., DTaP, DTP, DT, Td, or TT).	A. Anaphylaxis or anaphylactic shock	4 hours.
	B. Brachial Neuritis	2–28 days.
	C. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
II. Vaccines containing whole cell pertussis bacteria, extracted or partial cell pertussis bacteria, or specific pertussis antigen(s) (e.g., DTP, DTaP, P, DTP–Hib).	A. Anaphylaxis or anaphylactic shock	4 hours.
	B. Encephalopathy (or encephalitis)	72 hours.
	C. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
III. Measles, mumps, and rubella vaccine or any of its components (e.g., MMR, MR, M, R).	A. Anaphylaxis or anaphylactic shock	4 hours.
	B. Encephalopathy (or encephalitis)	5–15 days (not less than 5 days and not more than 15 days).

VACCINE INJURY TABLE—Continued

Vaccine	Illness, disability, injury or condition covered	Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration
	C. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
IV. Vaccines containing rubella virus (e.g., MMR, MR, R).	A. Chronic arthritis	7–42 days.
	B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
V. Vaccines containing measles virus (e.g., MMR, MR, M).	A. Thrombocytopenic purpura	7–30 days.
	B. Vaccine-Strain Measles Viral Infection in an immunodeficient recipient.	6 months.
	C. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
VI. Vaccines containing polio live virus (OPV)	A. Paralytic Polio	
	—in a non-immunodeficient recipient	30 days.
	—in an immunodeficient recipient	6 months.
	—in a vaccine associated community case.	Not applicable.
	B. Vaccine-Strain Polio Viral Infection	
	—in a non-immunodeficient recipient	30 days.
	—in an immunodeficient recipient	6 months.
	—in a vaccine associated community case.	Not applicable.
	C. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
VII. Vaccines containing polio inactivated virus (e.g., IPV).	A. Anaphylaxis or anaphylactic shock	4 hours.
	B. Any acute complication or sequela (including death of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
VIII. Hepatitis B. vaccines	A. Anaphylaxis or anaphylactic shock	4 hours.
	B. Any acute complication or sequela (including death) of an illness, disability, injury, or condition referred to above which illness, disability, injury, or condition arose within the time period prescribed.	Not applicable.
IX. Hemophilus influenzae type b polysaccharide conjugate vaccines.	No Condition Specified	Not applicable.
X. Varicella vaccine	No Condition Specified	Not applicable.
XI. Rotavirus vaccine	No Condition Specified	Not applicable.
XII. Pneumococcal conjugate vaccines	No Condition Specified	Not applicable.
XIII. Hepatitis A vaccines	No Condition Specified	Not applicable.
XIV. Trivalent influenza vaccines	No Condition Specified	Not applicable.
XV. Meningococcal vaccines	No Condition Specified	Not applicable.
XVI. Human papillomavirus (HPV) vaccines	No Condition Specified	Not applicable.
XVII. Any new vaccine recommended by the Centers for Disease Control and Prevention for routine administration to children, after publication by the Secretary of a notice of coverage.	No Condition Specified	Not applicable.

* * * * *

(c) * * * (1) Except as provided in paragraph (c) (2), (3), (4), (5), (6), or (7) of this section, the revised Table of Injuries set forth in paragraph (a) of this section and the Qualifications and Aids to Interpretation set forth in paragraph (b) of this section apply to petitions for compensation under the Program filed

with the United States Court of Federal Claims on or after March 24, 1997. Petitions for compensation filed before such date shall be governed by section 2114(a) and (b) of the Public Health Service Act as in effect on January 1, 1995, or by § 100.3 as in effect on March 10, 1995 (*see* 60 FR 7678, *et seq.,* February 8, 1995), as applicable.

* * * * *

(5) Hepatitis A vaccines (Item XIII of the Table) are included on the Table as of December 1, 2004.

(6) Trivalent influenza vaccines (Item XIV of the Table) are included on the Table as of July 1, 2005.

(7) Meningococcal vaccines and human papillomavirus (HPV) vaccines (Items XV and XVI of the Table) are included on the Table as of February 1, 2007.

(8) Other new vaccines (Item XVII of the Table) will be included in the Table as of the effective date of a tax enacted to provide funds for compensation paid with respect to such vaccines. An amendment to this section will be published in the **Federal Register** to announce the effective date of such a tax.

[FR Doc. 2010–22745 Filed 9–10–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1128]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before December 13, 2010.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1128, to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Sierra County, California, and Incorporated Areas				
Downie River	Approximately 0.76 mile downstream of Jersey Flat Bridge.	None	+2,897	Unincorporated Areas of Sierra County.
	Approximately 167 feet upstream of Jersey Flat Bridge.	None	+2,933	
North Yuba River	Approximately 5.45 miles downstream of Goodyears Bar Bridge.	None	+2,645	Unincorporated Areas of Sierra County.
	Approximately 0.38 mile upstream of Goodyears Bar Bridge.	None	+2,974	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Sierra County

Maps are available for inspection at the Sierra County Courthouse Annex, 101 Courthouse Square, Downieville, CA 95936.

Sanilac County, Michigan (All Jurisdictions)				
Lake Huron	Entire shoreline within Sanilac County	None	+584	Township of Delaware, Township of Forester, Township of Lexington, Township of Sanilac, Township of Worth, Village of Forestville, Village of Lexington, Village of Port Sanilac.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Township of Delaware

Maps are available for inspection at 3375 Charleston Road, Minden City, MI 48456.

Township of Forester

Maps are available for inspection at 5680 East Deckerville Road, Deckerville, MI 48427.

Township of Lexington

Maps are available for inspection at 7227 Huron Avenue, Suite 200, Lexington, MI 48450.

Township of Sanilac

Maps are available for inspection at 20 North Ridge Street, Port Sanilac, MI 48469.

Township of Worth

Maps are available for inspection at 6903 South Lakeshore Road, Lexington, MI 48450.

Village of Forestville

Maps are available for inspection at 5605 Cedar Avenue, Forestville, MI 48434.

Village of Lexington

Maps are available for inspection at 7227 Huron Avenue, Suite 100, Lexington, MI 48450.

Village of Port Sanilac

Maps are available for inspection at 56 North Ridge Street, Port Sanilac, MI 48469.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Erie County, New York (All Jurisdictions)				
Berricks Creek	Approximately 45 feet upstream of the I–90 culvert (upstream face).	None	+753	Town of Hamburg.
	Approximately 230 feet upstream of the I–90 culvert (upstream face).	None	+753	
Big Sister Creek	Approximately 5,475 feet downstream of Cain Road/Evans/Eden town boundary.	None	+732	Town of Eden.
	Approximately 1,875 feet downstream of Cain Road/Evans/Eden town boundary.	None	+735	
Buffalo River	At the confluence with Lake Erie	+580	+581	City of Buffalo.
	At the upstream face of the railroad bridge	+580	+581	
Cayuga Creek	Approximately 80 feet upstream of Clinton Street	+596	+593	Town of Cheektowaga, Town of Lancaster, Town of West Seneca, Village of Depew, Village of Lancaster.
	At the Lancaster/Alden town boundary	None	+742	
Cazenovia Creek	At the confluence with the Buffalo River	+584	+583	City of Buffalo.
	At the downstream face of Southside Parkway	+584	+583	
Cazenovia Creek East Branch.	Approximately 500 feet downstream of Center Street	None	+874	Village of East Aurora.
	Approximately 10 feet downstream of Center Street (at the Town of Aurora/Village of East Aurora boundary).	None	+874	
Cazenovia Creek East Branch.	Approximately 565 feet upstream of North Main Street (State Route 16).	+1,057	+1,063	Town of Holland.
	Approximately 1,930 feet upstream of North Main Street (State Route 16).	+1,074	+1,076	
Eighteenmile Creek	Approximately 230 feet upstream of the confluence with Eighteenmile Creek South Branch Tributary.	None	+650	Town of Hamburg.
	Approximately 425 feet downstream of South Creek Road.	None	+714	
Eighteenmile Creek	Approximately 5,280 feet upstream of U.S. Route 62 (Pierce Avenue).	None	+766	Village of Hamburg.
	Approximately 5,750 feet upstream of U.S. Route 62 (Pierce Avenue).	None	+767	
Ellicott Creek	Approximately 1,035 feet upstream of Colvin Boulevard.	None	+572	Town of Amherst, Town of Tonawanda.
	Approximately 1,435 feet northeast of the intersection of Lawrence Bell Drive and Cartwright Drive.	None	+695	
Ellicott Creek	At the downstream Town of Alden/Village of Alden boundary.	None	+810	Village of Alden.
	At the upstream Town of Alden/Village of Alden boundary.	None	+815	
Ellicott Creek	At Lynbrook Drive	None	+572	City of Tonawanda, Town of Tonawanda.
	Approximately 150 feet west of the intersection of Willow Grove Street and Parker Boulevard.	None	+572	
Lake Erie	At the southern corporate limits of the Town of Brant	None	+579	City of Buffalo, City of Lackawanna, Town of Brant.
	At the confluence with Black Rock Canal	+580	+581	
Little Buffalo Creek	At the confluence with Cayuga Creek	+678	+686	Town of Lancaster.
	At the downstream face of the dam, upstream of Bowen Road.	+683	+688	
Ransom Creek	At the upstream face of the Glen Oak Drive culvert	+581	+582	Town of Amherst, Town of Clarence.
	Approximately 115 feet upstream of Kraus Road	None	+652	
Scajaquada Creek	Approximately 15 feet downstream of the I–190 exit ramp.	+573	+579	City of Buffalo.
	At the downstream face of the Private Road culvert (downstream of Main Street).	+609	+610	
Slate Bottom Creek	At the confluence with Cayuga Creek	+601	+600	Town of Cheektowaga, Town of Elma, Town of Lancaster.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 175 feet upstream of Brunk Road	None	+715	
Smokes Creek	At the confluence with Lake Erie	+580	+581	City of Lackawanna.
	Approximately 550 feet upstream of the Bethlehem Steel Vehicular Bridge.	+580	+581	
Smokes Creek Northwest Branch.	Approximately 1,475 feet downstream of Berg Road	None	+662	Town of West Seneca.
	Approximately 2,950 feet upstream of Berg Road	None	+706	
Smokes Creek Northwest Branch.	Approximately 380 feet upstream of Highland Avenue	None	+870	Village of Orchard Park.
	Approximately 1,615 feet upstream of Highland Avenue.	None	+872	
Smokes Creek Overland Flow.	At the upstream face of the Lake Shore Road culvert	None	+581	Town of Hamburg, Village of Blasdell.
	At the upstream Village of Blasdell/City of Lackawanna boundary.	None	+591	
Smokes Creek South Branch	Approximately 115 feet upstream of Recreational Park Access Drive/Town of Orchard Park corporate limits.	None	+813	Town of Orchard Park.
	Approximately 630 feet north of the intersection of Elmhurst Drive and Woodland Drive/Town of Orchard Park corporate limits.	None	+845	
Tannery Brook	Approximately 195 feet upstream of Fillmore Avenue/Town of Aurora downstream corporate limits.	None	+935	Town of Aurora.
	Approximately 170 feet downstream of Brooklea Drive/Town of Aurora upstream corporate limits.	None	+936	
Tonawanda Creek	At Mary Vista Court extended	None	+572	Town of Amherst, Town of Tonawanda.
	At the downstream face of the footbridge near the intersection of Creekside Road and Niagara Falls Boulevard.	None	+574	
Unnamed Tributary to Slate Bottom Creek.	At the confluence with Slate Bottom Creek	+613	+609	Town of Cheektowaga.
	Approximately 450 feet upstream of Towers Boulevard.	None	+609	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Buffalo
Maps are available for inspection at City Hall, Room 201, Buffalo, NY 14202.

City of Lackawanna
Maps are available for inspection at City Hall, 714 Ridge Road, Lackawanna, NY 14218.

City of Tonawanda
Maps are available for inspection at Tonawanda City Hall, 200 Niagara Street, Tonawanda, NY 14150.

Town of Amherst
Maps are available for inspection at the Town of Amherst Municipal Building, 5583 Main Street, Williamsville, NY 14221.

Town of Aurora
Maps are available for inspection at the Aurora Town Hall, 5 South Grove Street, East Aurora, NY 14052.

Town of Brant
Maps are available for inspection at the Town Hall, 1294 Brant-North Collins Road, Brant, NY 14027.

Town of Cheektowaga
Maps are available for inspection at the Town Hall, 3301 Broadway, Cheektowaga, NY 14227.

Town of Clarence
Maps are available for inspection at the Town Hall, 1 Town Place, Clarence, NY 14031.

Town of Eden
Maps are available for inspection at the Town Hall, 2795 East Church Street, Eden, NY 14057.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Town of Elma
Maps are available for inspection at the Town Hall, 1600 Bowen Road, Elma, NY 14059.

Town of Hamburg
Maps are available for inspection at the Hamburg Town Hall, 6100 South Park Avenue, Hamburg, NY 14075.

Town of Holland
Maps are available for inspection at the Town Hall, 47 Pearl Street, Holland, NY 14080.

Town of Lancaster
Maps are available for inspection at the Lancaster Town Hall, 21 Central Avenue, Lancaster, NY 14086.

Town of Orchard Park
Maps are available for inspection at the Town Hall, 4295 South Buffalo Road, Orchard Park, NY 14127.

Town of Tonawanda
Maps are available for inspection at the Tonawanda Town Hall, 2919 Delaware Avenue, Tonawanda, NY 14217.

Town of West Seneca
Maps are available for inspection at the Town Hall, 1250 Union Road, West Seneca, NY 14224.

Village of Alden
Maps are available for inspection at the Village Hall, 13336 Broadway, Alden, NY 14004.

Village of Blasdell
Maps are available for inspection at the Village Hall, 121 Miriam Avenue, Blasdell, NY 14219.

Village of Depew
Maps are available for inspection at the Village Hall, 85 Manitou Street, Depew, NY 14043.

Village of East Aurora
Maps are available for inspection at the Village Hall, 571 Main Street, East Aurora, NY 14052.

Village of Hamburg
Maps are available for inspection at the Hamburg Village Hall, 100 Main Street, Hamburg, NY 14075.

Village of Lancaster
Maps are available for inspection at the Lancaster Village Hall, 5423 Broadway, Lancaster, NY 14086.

Village of Orchard Park
Maps are available for inspection at the Orchard Park Village Offices, 4295 South Buffalo Road, Orchard Park, NY 14127.

Holmes County, Ohio, and Incorporated Areas

Killbuck Creek	Just downstream of U.S. Route 62	None	+807	Unincorporated Areas of Holmes County, Village of Killbuck.
	Just upstream of Township Road 91	None	+811	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Holmes County
Maps are available for inspection at 2 Court Street, Millersburg, OH 44654.

Village of Killbuck
Maps are available for inspection at 451 South Railroad Street, Killbuck, OH 44637.

Jefferson County, Pennsylvania (All Jurisdictions)

Big Run	Approximately 1,500 feet downstream of the confluence with Trout Run.	None	+1,281	Township of Henderson.
	Approximately 250 feet downstream of the confluence with Trout Run.	None	+1,284	
Falls Creek	Approximately 1,740 feet downstream of the confluence with Wolf Run.	None	+1,399	Township of Washington.
	Approximately 1,450 feet upstream of the confluence with Wolf Run.	None	+1,415	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Fivemile Run	Approximately 260 feet upstream of the confluence with Sandy Lick Creek.	None	+1,220	Township of Rose.
	Approximately 240 feet upstream of the confluence with Swamp Run.	None	+1,231	
Mahoning Creek	At the confluence with Elk Run	None	+1,234	Borough of Punxsutawney.
	Approximately 450 feet upstream of Graffius Avenue, on Elk Run.	None	+1,234	
Mahoning Creek	Approximately 0.44 mile upstream of the confluence with Elk Run.	None	+1,237	Township of Bell.
	Approximately 0.46 mile upstream of the confluence with Elk Run.	None	+1,237	
Mahoning Creek	Approximately 0.66 mile downstream of Lincoln Avenue.	None	+1,227	Township of Young.
	Approximately 0.64 mile downstream of Lincoln Avenue.	None	+1,227	
Rattlesnake Creek	Approximately 200 feet upstream of the confluence with Rattlesnake Run.	None	+1,468	Township of Washington.
	Approximately 250 feet upstream of the confluence with Rattlesnake Run.	None	+1,468	
Redbank Creek	Approximately 1 mile upstream of the confluence with Coder Run.	None	+1,210	Township of Rose.
	Approximately 0.70 mile downstream of White Street	None	+1,212	
Sandy Lick Creek	Approximately 0.28 mile downstream of 2nd Street	None	+1,216	Township of Rose.
	Approximately 1,050 feet downstream of 2nd Street	None	+1,217	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Borough of Punxsutawney
Maps are available for inspection at the Mahoning East Civic Center, 301 East Mahoning Street, Punxsutawney, PA 15767.

Township of Bell
Maps are available for inspection at the Bell Township Building, 103 Runway Drive, Punxsutawney, PA 15767.

Township of Henderson
Maps are available for inspection at the Henderson Township Hall, 2801 Pine Run Road, Sigel, PA 15767.

Township of Rose
Maps are available for inspection at the Rose Township Hall, 17042 State Route 36, Brookville, PA 15825.

Township of Washington
Maps are available for inspection at the Washington Township Office, 2933 Airport Road, Falls Creek, PA 15840.

Township of Young
Maps are available for inspection at the Young Township Office, 1517 Walston Road, Walston, PA 15781.

Lawrence County, Pennsylvania (All Jurisdictions)

Beaver River	Approximately 0.49 mile downstream of the confluence with Wampum Run.	None	+763	Borough of New Beaver, Borough of Wampum.
	Approximately 1 mile downstream of the confluence with Jenkins Run.	None	+767	
Beaver River	Approximately 400 feet downstream of the confluence with the Shenango River.	None	+776	Township of Taylor.
	Approximately 80 feet downstream of the confluence with the Shenango River.	None	+776	
Big Run Tributary 5	Approximately 0.45 mile downstream of Harlandsburg Road.	None	+1,157	Township of Hickory.
	Approximately 1,362 feet upstream of the intersection of Harlandsburg Road and Cameron Road.	None	+1,159	
Mahoning River	Approximately 0.69 mile downstream of the intersection of Washington Street and Winter Road.	None	+785	Township of Union.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 0.68 mile downstream of the intersection of Washington Street and Winter Road.	None	+785	
Neshannock Creek	Approximately 1,500 feet downstream of the confluence with Lick Run.	None	+849	Township of Hickory.
	Approximately 1,230 feet upstream of the confluence with Lick Run.	None	+859	
Neshannock Creek	Approximately 0.45 mile upstream of the confluence with Neshannock Creek Tributary 5.	None	+924	Township of Wilmington.
	Approximately 0.47 mile downstream of the intersection of Highland Avenue and Neshannock Falls Road.	None	+925	
Neshannock Creek Tributary 3.	Approximately 50 feet upstream of Lakewood-Neshannock Falls Road.	None	+901	Township of Hickory.
	Approximately 540 feet upstream of Lakewood-Neshannock Falls Road.	None	+901	
Shenango River	Approximately 800 feet downstream of the confluence with the Shenango River.	None	+777	Township of Taylor.
	Approximately 1,200 feet downstream of Mahoning Avenue.	None	+787	
Shenango River	Approximately 40 feet upstream of the confluence with Shenango River Tributary 2.	None	+804	Township of Mahoning, Township of Pulaski, Township of Union.
	Approximately 0.70 mile upstream of the confluence with Shenango River Tributary 5.	None	+809	
Slippery Rock Creek	Approximately 400 feet downstream of Portersville Road.	None	+831	Township of Perry.
	Approximately 1,460 feet upstream of Van Gorder Mill Road.	None	+848	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Borough of New Beaver
Maps are available for inspection at the New Beaver Borough Office, 778 Wampum New Galilee Road, New Galilee, PA 16141.

Borough of Wampum
Maps are available for inspection at the Borough Secretary's Office, 355 Main Street, Wampum, PA 16157.

Township of Hickory
Maps are available for inspection at the Hickory Township Hall, 127 Eastbrook-Neshannock Falls Road, New Castle, PA 16105.

Township of Mahoning
Maps are available for inspection at the Mahoning Township Municipal Building, 4538 West State Street, Hillsville, PA 16132.

Township of Perry
Maps are available for inspection at the Perry Township Hall, 525 Cut Off Street, Ellwood City, PA 16117.

Township of Pulaski
Maps are available for inspection at the Township Hall, 1172 State Route 208, Pulaski, PA 16117.

Township of Taylor
Maps are available for inspection at the Taylor Township Board of Supervisors Office, 218 Industrial Street, West Pittsburg, PA 16160.

Township of Union
Maps are available for inspection at the Union Township Board of Supervisors Office, 1910 Wilson Drive, New Castle, PA 16101.

Township of Wilmington
Maps are available for inspection at the Wilmington Township Hall, 669 Wilson Mill Road, New Castle, PA 16105.

Cherokee County, South Carolina, and Incorporated Areas

Broad River	At the confluence with the Pacolet River	None	+437	Unincorporated Areas of Cherokee County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Kings Creek	Approximately 2.1 miles upstream of the confluence with Quinton Branch.	None	+458	Unincorporated Areas of Cherokee County.
	At the confluence with the Broad River	None	+458	
	Approximately 0.9 mile upstream of Old Chester Road.	None	+493	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Cherokee County

Maps are available for inspection at the Cherokee County Administration Office, 210 North Limestone Street, Gaffney, SC 29340.

Putnam County, West Virginia, and Incorporated Areas

Buffalo Creek	At the confluence with the Kanawha River	None	+575	Town of Eleanor, Unincorporated Areas of Putnam County.
	Approximately 1.77 mile upstream of the Town of Eleanor boundary.	None	+577	
Mill Creek	At the confluence with Hurricane Creek	None	+626	City of Hurricane, Unincorporated Areas of Putnam County.
	Approximately 200 feet downstream of White Rock Drive.	None	+678	
Poplar Fork	At the confluence with Hurricane Creek	None	+585	Unincorporated Areas of Putnam County.
	Approximately 95 feet downstream of Cow Creek Road.	None	+585	
Poplar Fork	Just upstream of the confluence with Long Branch	None	+626	Unincorporated Areas of Putnam County.
	Approximately 130 feet downstream of State Route 34.	None	+646	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Hurricane

Maps are available for inspection at City Hall, 3255 Teays Valley Road, Hurricane, WV 25526.

Town of Eleanor

Maps are available for inspection at the Town Hall, 401 Roosevelt Boulevard, Eleanor, WV 25070.

Unincorporated Areas of Putnam County

Maps are available for inspection at the Putnam County Office of Planning and Infrastructure, 3389 Winfield Road, Winfield, WV 25213.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 1, 2010.

Sandra K. Knight,

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

[FR Doc. 2010–22761 Filed 9–10–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1127]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before December 13, 2010.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1127, to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Winneshiek County, Iowa, and Incorporated Areas				
Upper Iowa River	Approximately 1.0 mile downstream of Clay Hill Road	None	+836	City of Decorah, Unincorporated Areas of Winnieshiek County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 0.73 mile upstream of U.S. Route 52 ..	None	+880	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Decorah

Maps are available for inspection at 400 Claiborne Drive, Decorah, IA 52101.

Unincorporated Areas of Winnieshiek County

Maps are available for inspection at 201 West Main Street, Decorah, IA 52101.

Saline County, Kansas, and Incorporated Areas

Critical Drainage Area No. 2	Just upstream of East Prescott Road	+1224	+1225	City of Salina.
	Just upstream of Cloud Street	+1226	+1229	
Magnolia Road Ditch	Approximately 0.5 mile downstream of Ninth Street	+1240	+1241	City of Salina, Unincorporated Areas of Saline County.
	Approximately 625 feet upstream of Edwards Street ..	+1240	+1241	
The Slough	Just upstream of Prescott Avenue	+1227	+1226	City of Salina.
	Approximately 80 feet upstream of Cloud Street	+1232	+1231	
Tributary to East Dry Creek Tributary.	Approximately 0.7 mile downstream of Indiana Avenue.	None	+1234	City of Salina, Unincorporated Areas of Saline County.
	Approximately 1,512 feet upstream of Brookwood Lane.	None	+1261	
Unnamed Drainage Area (a)	Just downstream of Otto Avenue	+1236	+1239	City of Salina.
	Just downstream of Belmont Avenue	+1240	+1243	
Unnamed Drainage Area (b)	Just downstream of Red Fox Lane	+1230	+1225	City of Salina.
	Just upstream of Quincy Street	+1240	+1238	
Unnamed Drainage Area (c)	Just upstream of Magnolia Road	+1234	+1227	City of Salina.
	Just downstream of Missouri Pacific Railroad	+1243	+1242	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Salina

Maps are available for inspection at City Hall, 300 West Ash Street, Salina, KS 67402.

Unincorporated Areas of Saline County

Maps are available for inspection at the Saline County Courthouse, 300 West Ash Street, Salina, KS 67402.

Elko County, Nevada, and Incorporated Areas

I–80 Runoff	From approximately 0.60 mile downstream of the I–80 crossing of U.S. Alt 93 to approximately 0.38 mile downstream of the I–80 crossing of U.S. Alt 93.	None	#2	City of West Wendover, Unincorporated Areas of Elko County.
	From approximately 0.97 mile upstream of the I–80 crossing of U.S. Alt 93 to approximately 1.42 mile upstream of the I–80 crossing of U.S. Alt 93.	None	#2	
	Approximately 500 feet north of Wendover Boulevard, approximately 0.73 mile east of U.S. Alt 93.	None	+4355	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 80 feet north of I–80, approximately 400 feet east of Maple Street.	None	+4362	
	Approximately 260 feet downstream of the U.S. Alt 93 crossing of I–80 along U.S. Alt 93.	None	+4380	
	Approximately 0.74 mile upstream of the I–80 crossing of U.S. Alt 93.	None	+4530	
North Channel	From approximately 250 feet upstream of U.S. Alt 93 to approximately 0.51 mile upstream of U.S. Alt 93.	None	#1	Unincorporated Areas of Elko County.
	From approximately 0.95 mile upstream of U.S. Alt 93 to approximately 1.25 mile upstream of U.S. Alt 93.	None	#1	
	From approximately 0.51 mile upstream of U.S. Alt 93 to approximately 300 feet downstream of Western Pacific Railroad.	None	#2	
	Approximately 1.60 mile downstream of Landfill Road along U.S. Alt 93.	None	+4280	
	Approximately 1,900 feet downstream of Landfill Road along U.S. Alt 93.	None	+4292	
	Approximately 300 feet downstream of Western Pacific Railroad.	None	+4452	
	Approximately 1,700 feet downstream of I–80	None	+4745	
North Channel Tributary	At the culvert at Western Pacific Railroad to approximately 0.38 mile upstream of the culvert at Western Pacific Railroad.	None	#1	Unincorporated Areas of Elko County.
	Approximately 250 feet upstream of the confluence with North Channel.	None	+4528	
	Approximately 100 feet upstream of Western Pacific Railroad.	None	+4678	
North Channel Tributary 2	Approximately 200 feet upstream of the confluence with North Channel.	None	+4560	Unincorporated Areas of Elko County.
	Approximately 0.44 mile upstream of the confluence with North Channel.	None	+4595	
North Channel Tributary 3	From approximately 0.85 mile downstream of I–80 to approximately 100 feet downstream of I–80.	None	#1	Unincorporated Areas of Elko County.
	Just upstream of I–80 eastbound	None	+4802	
	Approximately 100 feet northeast of the I–80 exit to Wendover Boulevard.	None	+4828	
North East Runoff	Approximately 1 mile north of the intersection of Maple Street and Odle Drive to approximately 1.10 mile northeast of the intersection of Maple Street and Odle Drive.	None	+4871	Unincorporated Areas of Elko County.
Ponding in Casino Parking Lot.	Approximately 300 feet south of Wendover Boulevard, just east of Camper Drive, to approximately 600 feet east of Camper Drive.	None	+4377	City of West Wendover.
Ponding in Gas Station Parking Lot.	Approximately 0.40 mile west of U.S. Alt 95, approximately 350 feet north of Wendover Boulevard, to approximately 675 feet north of Wendover Boulevard.	None	+4420	City of West Wendover.
Ponding in Recreational Center Softball Field.	Approximately 1,250 feet east of Camper Drive, approximately 910 feet south of Wendover Boulevard, to approximately 550 feet south of Wendover Boulevard.	None	#1	City of West Wendover, Unincorporated Areas of Elko County.
Red Garter Street and Wendover Boulevard Runoff.	From approximately 500 feet downstream of the intersection of Wendover Boulevard and Red Garter Street to approximately 500 feet north of the intersection of Wendover Boulevard and Red Garter Street.	None	#3	City of West Wendover, Unincorporated Areas of Elko County.
South West Channel	Approximately 1.26 mile downstream of Western Pacific Railroad.	None	+4408	Unincorporated Areas of Elko County.
	Approximately 0.88 mile upstream of Western Pacific Railroad.	None	+4602	
South West Channel Tributary.	From approximately 550 feet east of Western Pacific Railroad to approximately 1.02 mile upstream of Western Pacific Railroad.	None	#1	Unincorporated Areas of Elko County.
	Approximately 1,730 feet downstream of Western Pacific Railroad.	None	+4482	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 0.62 mile upstream of Western Pacific Railroad along Western Pacific Railroad.	None	+4550	
Wendover Air Force Auxiliary Field Basins.	From approximately 0.95 mile south of the intersection of U.S. Alt 93 and Airport Way to approximately 0.78 mile south of the intersection of U.S. Alt 93 and Airport Way.	None	#1	Unincorporated Areas of Elko County.
	Approximately 0.83 mile south of the intersection of U.S. Alt 93 and Airport Way.	None	+4228	
	Approximately 0.38 mile south of the intersection of U.S. Alt 93 and Airport Way.	None	+4250	
Wendover Air Force Auxiliary Field Drainage.	From approximately 2.00 miles south of the intersection of U.S. Alt 93 and Airport Way to approximately south of the intersection of U.S. Alt 93 and Airport Way.	None	#1	Unincorporated Areas of Elko County.
	From approximately 2.40 miles south of Scobie Road to approximately 2.00 miles south of Scobie Road, and from approximately 1.88 mile east of U.S. Alt 93 to approximately 2.38 miles east of U.S. Alt 93.	None	#2	
	Approximately 0.39 mile downstream of the intersection of Airport Way and U.S. Alt 93 along Airport Way.	None	+4260	
	Approximately 500 feet upstream of Airport Way	None	+4268	
Wendover Boulevard Runoff	From approximately 0.51 mile east of the intersection of U.S. Alt 93 and Wendover Boulevard along Wendover Boulevard to approximately 600 feet east of the intersection of U.S. Alt 93 and Wendover Boulevard.	None	#1	City of West Wendover.
	Approximately 0.51 mile east of the intersection of U.S. Alt 93 and Wendover Boulevard north and south of Wendover Boulevard.	None	+4345	
Wendover Boulevard to Airport Way Runoff.	From Kelcee Street to just south of Western Pacific Railroad along Airport Way.	None	#2	City of West Wendover.
	From approximately 0.40 mile east of the intersection of U.S. Alt 93 and Western Pacific Railroad to approximately 1,109 feet east of the intersection of U.S. Alt 93 and Western Pacific Railroad.	None	#2	
	Between Wendover Boulevard, U.S. Alt 93, and Scobie Road, approximately 470 feet south of Wendover Boulevard.	None	+4286	
West Channel	From approximately 0.40 mile upstream of the confluence with South West Channel to approximately 0.72 mile upstream of the confluence with South West Channel.	None	#1	Unincorporated Areas of Elko County.
	Approximately 100 feet upstream of the confluence with South West Channel.	None	+4453	
	Approximately 0.39 mile upstream of the confluence with South West Channel.	None	+4498	
	Approximately 0.72 mile upstream of the confluence with South West Channel.	None	+4535	
	Approximately 3.25 miles upstream of the confluence with South West Channel.	None	+4696	
Western Pacific Railroad and U.S. Route 93 Runoff.	Approximately 1,050 feet downstream of the U.S. Alt 93 crossing of Western Pacific Railroad.	None	+4298	City of West Wendover, Unincorporated Areas of Elko County.
	Approximately 0.49 mile upstream of the U.S. Alt 93 crossing of Western Pacific Railroad.	None	+4326	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of West Wendover

Maps are available for inspection at 1111 North Gene L. Jones Way, West Wendover, NV 89883.

Unincorporated Areas of Elko County

Maps are available for inspection at 155 9th Street, Elko, NV 89801.

Luzerne County, Pennsylvania (All Jurisdictions)

Bear Creek	Approximately 0.4 mile downstream of Bear Creek Boulevard.	None	+1502	Borough of Bear Creek Village.
	Approximately 940 feet upstream of the confluence with Tenmile Run.	None	+1530	
Big Wapwallopen Creek	Approximately 0.41 mile upstream of State Route 239	None	+522	Township of Hollenback.
	Approximately 0.45 mile upstream of State Route 239	None	+524	
Big Wapwallopen Creek	Approximately 385 feet downstream of Hobbie Wapwallopen Road.	None	+845	Township of Dorrance, Township of Fairview, Township of Hollenback, Township of Rice, Township of Wright.
	Approximately 535 feet upstream of Dale Drive	None	+1526	
Black Creek	Approximately 910 feet upstream of Susquehanna Boulevard.	None	+1461	Borough of West Hazleton.
	Approximately 0.56 mile upstream of Susquehanna Boulevard.	None	+1470	
Bow Creek	Approximately 1,185 feet upstream of the confluence with Bow Creek Tributary A.	None	+1346	Township of Fairview.
	Approximately 0.38 mile downstream of railroad	None	+1546	
Bow Creek Tributary A	Approximately 520 feet downstream of Wilkes Lane	None	+1341	Township of Fairview.
	Approximately 1,865 feet upstream of Shady Tree Drive.	None	+1491	
Browns Creek	Approximately 100 feet downstream of Private Road	+903	+901	Township of Jackson.
	Approximately 1,390 feet upstream of Chase Road	+993	+988	
Harveys Creek	Approximately 590 feet downstream of Shady Lane	None	+1098	Town of Lehman.
	Approximately 410 feet downstream of Shady Lane	None	+1099	
Huntington Creek	Approximately 1,320 feet downstream of Henrico Road.	None	+894	Township of Ross.
	Approximately 1,290 feet downstream of Henrico Road.	None	+894	
Lattimer Creek	Approximately 900 feet downstream of West 28th Street.	None	+1491	Township of Hazle.
	Approximately 745 feet upstream of Hillside Drive	None	+1585	
Lidy Creek	Approximately 265 feet downstream of the Pennsylvania Turnpike.	None	+833	Township of Pittston.
	Approximately 115 feet downstream of the Pennsylvania Turnpike.	None	+837	
Little Nescopeck Creek No. 2	Approximately 0.77 mile downstream of Sunset Drive	None	+942	Township of Butler.
	Approximately 0.76 mile downstream of Sunset Drive	None	+942	
Mill Creek No. 2	Approximately 650 feet downstream of I–81	None	+783	Township of Pittston.
	Approximately 500 feet downstream of I–81	None	+799	
Pikes Creek	Approximately 815 feet downstream of State Route 29.	None	+1127	Town of Lehman.
	Approximately 700 feet downstream of State Route 29.	None	+1127	
	Approximately 965 feet upstream of the confluence with Fades Creek.	None	+1141	
	Approximately 1,005 feet downstream of State Route 118.	None	+1143	
Pine Creek No. 1	Approximately 540 feet downstream of White Haven Road.	None	+1355	Borough of Penn Lake Park.
	Approximately 390 feet downstream of White Haven Road.	None	+1359	
Pine Creek No. 2	Approximately 1.1 mile downstream of Town Hill Road.	None	+731	Township of Huntington.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 0.91 mile downstream of Town Hill Road.	None	+736	
Pine Creek No. 2	Approximately 885 feet downstream of Volanski Road	None	+842	Township of Fairmount.
	Approximately 810 feet downstream of Volanski Road	None	+842	
South Branch Newport Creek	Approximately 450 feet upstream of the confluence with Newport Creek.	None	+560	Township of Newport.
	Approximately 670 feet upstream of the confluence with Newport Creek.	None	+560	
Spring Run	Approximately 110 feet upstream of railroad	None	+576	Borough of Ashley.
	Approximately 300 feet upstream of railroad	None	+578	
Susquehanna River	Approximately 1.95 mile downstream of Salem Creek	None	+500	Borough of Duryea, Borough of Edwardsville, Borough of Exeter, Borough of Forty Fort, Borough of Kingston, Borough of Larksville, Borough of Nescopeck, Borough of Plymouth, Borough of Shickshinny, Borough of West Pittston, Borough of Wyoming, City of Nanticoke, City of Pittston, City of Wilkes-Barre, Township of Conyngham, Township of Exeter, Township of Hanover, Township of Hunlock, Township of Jenkins, Township of Nescopeck, Township of Newport, Township of Plains, Township of Plymouth, Township of Salem, Township of Union.
	Approximately 2.49 mile upstream of the confluence with Sutton Creek.	None	+579	
Sutton Creek	Approximately 300 feet upstream of Miller Road	None	+845	Township of Exeter.
	Approximately 405 feet upstream of Miller Road	None	+846	
Toby Creek	Approximately 700 feet downstream of Cross Valley Expressway.	None	+644	Borough of Courtdale, Borough of Luzerne.
	Approximately 0.49 mile upstream of Cross Valley Expressway.	None	+759	
Toby Creek	Approximately 205 feet upstream of Woodlawn Avenue.	None	+1125	Township of Dallas.
	Approximately 240 feet upstream of Woodlawn Avenue.	None	+1125	
Watering Run	At the confluence with Big Wapwallopen Creek, approximately 440 feet upstream of Morio Drive.	None	+1071	Township of Wright.
	Approximately 0.58 mile upstream of South Mountain Boulevard.	None	+1422	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Borough of Ashley

Maps are available for inspection at the Borough Building, 10 North Main Street, Ashley, PA 18706.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Borough of Bear Creek Village
Maps are available for inspection at the Bear Creek Village Borough Building, 867 Railroad Lane, Bear Creek, PA 18602.

Borough of Courtdale
Maps are available for inspection at the Borough Building, 5 Blackman Street, Courtdale, PA 18704.

Borough of Duryea
Maps are available for inspection at the Borough Building, 315 Main Street, Duryea, PA 18642.

Borough of Edwardsville
Maps are available for inspection at the Edwardsville Borough Building, 470 Main Street, Kingston, PA 18704.

Borough of Exeter
Maps are available for inspection at the Exeter Borough Building, 1101 Wyoming Avenue, Exeter, PA 18643.

Borough of Forty Fort
Maps are available for inspection at the Borough Building, 1271 Wyoming Avenue, Forty Fort, PA 18704.

Borough of Kingston
Maps are available for inspection at the Borough Building, 500 Wyoming Avenue, Kingston, PA 18704.

Borough of Larksville
Maps are available for inspection at the Borough Building, 211 East State Street, Larksville, PA 18704.

Borough of Luzerne
Maps are available for inspection at the Borough Building, 144 Academy Street, Luzerne, PA 18709.

Borough of Nescopeck
Maps are available for inspection at the Nescopeck Borough Building, 501 Raber Avenue, Nescopeck, PA 18635.

Borough of Penn Lake Park
Maps are available for inspection at the Penn Lake Park Borough Building, 51 Woodland Drive, White Haven, PA 18661.

Borough of Plymouth
Maps are available for inspection at the Plymouth Borough Building, 162 West Shawnee Avenue, Plymouth, PA 18651.

Borough of Shickshinny
Maps are available for inspection at the Borough Building, 35 West Union Street, Shickshinny, PA 18655.

Borough of West Hazleton
Maps are available for inspection at the Borough Building, 12 South 4th Street, West Hazleton, PA 18202.

Borough of West Pittston
Maps are available for inspection at West Pittston Borough Building, 555 Exeter Avenue, West Pittston, PA 18644.

Borough of Wyoming
Maps are available for inspection at the Borough Building, 277 Wyoming Avenue, Wyoming, PA 18644.

City of Nanticoke
Maps are available for inspection at City Hall, 15 East Ridge Street, Nanticoke, PA 18634.

City of Pittston
Maps are available for inspection at City Hall, 35 Broad Street, Pittston, PA 18640.

City of Wilkes-Barre
Maps are available for inspection at City Hall, 40 East Market Street, Wilkes-Barre, PA 18711.

Town of Lehman
Maps are available for inspection at the Lehman Town Hall, 1183 Old Route 115, Dallas, PA 18612.

Township of Butler
Maps are available for inspection at the Butler Township Building, 415 West Butler Drive, Drums, PA 18222.

Township of Conyngham
Maps are available for inspection at the Conyngham Township Building, 10 Pond Hill Road, Mocanaqua, PA 18655.

Township of Dallas
Maps are available for inspection at the Township Building, 601 Tunkhannock Highway, Dallas, PA 18612.

Township of Dorrance
Maps are available for inspection at the Dorrance Township Building, 7844 Blue Ridge Trail, Mountain Top, PA 18707.

Township of Exeter
Maps are available for inspection at the Exeter Township Building, Rural Route 1, Box 191, West Pittston, PA 18643.

Township of Fairmount
Maps are available for inspection at the Fairmount Township Building, 867 Old Tioga Turnpike, Benton, PA 17814.

Township of Fairview
Maps are available for inspection at the Fairview Township Building, 65 Shady Tree Drive, Mountain Top, PA 18707.

Township of Hanover
Maps are available for inspection at the Township Building, 1267 Sans Souci Parkway, Hanover, PA 18706.

Township of Hazle
Maps are available for inspection at the Hazle Township Building, Rear 101 West 27, Harleigh, PA 18225.

Township of Hollenback
Maps are available for inspection at the Hollenback Township Building, 660 East County Road, Wapwallopen, PA 18660.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Township of Hunlock
Maps are available for inspection at the Township Building, 33 Village Drive, Hunlock Creek, PA 18621.

Township of Huntington
Maps are available for inspection at the Huntington Township Building, 815 Municipal Road, Shickshinny, PA 18655.

Township of Jackson
Maps are available for inspection at the Jackson Township Building, 2211 Huntsville Road, Shavertown, PA 18708.

Township of Jenkins
Maps are available for inspection at the Township Building, 46½; Main Street-Inkerman Section, Jenkins, PA 18640.

Township of Nescopeck
Maps are available for inspection at the Nescopeck Township Building, 429 Berwick-Hazleton Highway, Nescopeck, PA 18635.

Township of Newport
Maps are available for inspection at the Newport Township Building, 1002 Center Street, Wanamie, PA 18634.

Township of Pittston
Maps are available for inspection at the Township Building, 421 Broad Street, Pittston, PA 18640.

Township of Plains
Maps are available for inspection at the Township Building, 126 North Main Street, Plains, PA 18705.

Township of Plymouth
Maps are available for inspection at the Plymouth Township Building, 925 West Main Street, Plymouth, PA 18651.

Township of Rice
Maps are available for inspection at the Rice Township Building, 3000 Church Road, Mountain Top, PA 18707.

Township of Ross
Maps are available for inspection at the Ross Township Building, 72 Broadway Road, Sweet Valley, PA 18656.

Township of Salem
Maps are available for inspection at the Salem Township Building, 38 Bomboy Lane, Berwick, PA 18603.

Township of Union
Maps are available for inspection at the Union Township Building, 21 Municipal Road, Shickshinny, PA 18655.

Township of Wright
Maps are available for inspection at the Wright Township Building, 321 South Mountain Boulevard, Mountain Top, PA 18707.

Mercer County, Pennsylvania (All Jurisdictions)

Baker Run	Approximately 55 feet upstream of Highland Road	None	+1114	City of Sharon.
	Approximately 30 feet downstream of Richmond Drive	None	+1117	
Little Shenango River	Approximately 0.94 mile downstream of the confluence with Little Shenango River Tributary 1.	None	+968	Township of Sugar Grove.
	Approximately 0.9 mile downstream of the confluence with Little Shenango River Tributary 1.	None	+968	
Munnel Run	Approximately 0.31 mile upstream of Home Street	None	+1125	Township of Findley.
	Approximately 0.21 mile downstream of Franklin Street.	None	+1131	
Neshannock Creek	Approximately 425 feet downstream of the intersection of Plantation Drive and Cypress Lane.	None	+1093	Township of Findley.
	Approximately 0.3 mile upstream of the intersection of Schaffer Road and Grove City Road.	None	+1095	
Otter Creek	Approximately 0.28 mile upstream of the confluence with Munnell Run.	None	+1099	Township of Findley.
	Approximately 0.3 mile upstream of the confluence with Munnell Run.	None	+1099	
Sawmill Run	Approximately 0.35 mile upstream of the confluence with Sawmill Run Tributary 1.	None	+1164	Township of Sandy Lake.
	Approximately 0.46 mile upstream of the confluence with Sawmill Run Tributary 1.	None	+1165	
Sawmill Run	Approximately 0.23 mile downstream of Franklin Street (just below Maple Street).	None	+1167	Borough of Stoneboro.
	Approximately 305 feet upstream of Franklin Street	None	+1167	
Shenango River	Approximately 690 feet upstream of the confluence with Big Run No. 1.	None	+930	Borough of Greenville, Township of West Salem.
	Approximately 295 feet upstream of the intersection of Clinton Street and Canal Street.	None	+943	
Shenango River	Approximately 275 feet upstream of the confluence with Shenango River Tributary 3.	None	+835	Municipality of Hermitage.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 490 feet downstream of the confluence with Little Yankee Run.	None	+845	
	Just downstream of Clark Street	None	+856	
	Approximately 820 feet upstream of the confluence with Big Run No. 2.	None	+859	
Shenango River	Approximately 0.34 mile upstream of the confluence with the Little Shenango River.	None	+949	Township of West Salem.
	Approximately 200 feet downstream of Porter Road	None	+951	
Wolf Creek	Approximately 0.21 mile upstream of the confluence with Barmore Run.	None	+1220	Township of Pine.
	Approximately 0.34 mile downstream of the intersection of Craig Street and Garden Avenue.	None	+1226	
	Approximately 0.2 mile downstream of the intersection of Craig Street and Garden Avenue.	None	+1226	
	Approximately 0.38 mile downstream of State Route 58 (Main Street).	None	+1226	
	Approximately 0.22 mile downstream of the confluence with Black Run.	None	+1245	
	Approximately 0.21 mile downstream of the confluence with Black Run.	None	+1245	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Borough of Greenville
Maps are available for inspection at 125 Main Street, Greenville, PA 16125.

Borough of Stoneboro
Maps are available for inspection at 59 Lake Street, Stoneboro, PA 16153.

City of Sharon
Maps are available for inspection at the Municipal Building, 155 West Connelly Boulevard, Sharon, PA 16146.

Municipality of Hermitage
Maps are available for inspection at City Hall, 800 North Hermitage Road, Hermitage, PA 16148.

Township of Findley
Maps are available for inspection at the Findley Township Building, 369 McClelland Road, Mercer, PA 16137.

Township of Pine
Maps are available for inspection at the Pine Township Building, 545 Barkeyville Road, Grove City, PA 16127.

Township of Sandy Lake
Maps are available for inspection at the Township Building, 3271 South Main Street, Sandy Lake, PA 16145.

Township of Sugar Grove
Maps are available for inspection at 359 Groover Road, Greenville, PA 16125.

Township of West Salem
Maps are available for inspection at the West Salem Township Building, 610 Vernan Road, Greenville, PA 16125.

Venango County, Pennsylvania (All Jurisdictions)

Allegheny River	Approximately 860 feet upstream of I–80	None	+880	Borough of Emlenton.
	Approximately 0.3 mile downstream of Allegheny River Tributary 2.	None	+891	
Allegheny River	Approximately 0.8 mile downstream of Kennerdell Road.	None	+931	Township of Clinton.
	At the confluence with Sandy Creek	None	+949	
East Sandy Creek	Approximately 460 feet upstream of the confluence with the Allegheny River.	None	+961	Township of Rockland.
	Approximately 1,000 feet upstream of the confluence with the Allegheny River.	None	+961	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Sugar Creek	Approximately 0.79 mile downstream Bradleytown Road.	None	+1201	Township of Plum.
	Approximately 0.78 mile downstream Bradleytown Road.	None	+1201	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Borough of Emlenton
Maps are available for inspection at the Borough Building, 511 Hill Street, Emlenton, PA 16373.

Township of Clinton
Maps are available for inspection at the Clinton Township Building, 123 Donaldson Road, Kennerdell, PA 16374.

Township of Plum
Maps are available for inspection at the Plum Township Building, 2360 Sunville Road, Cooperstown, PA 16317.

Township of Rockland
Maps are available for inspection at the Rockland Township Building, 1115 Rockland Township Road, Kennerdell, PA 16374.

Chester County, South Carolina, and Incorporated Areas

Broad River (Downstream)	Approximately 1.8 mile downstream of State Highway 72.	None	+314	Unincorporated Areas of Chester County.
	Approximately 2.0 miles upstream of State Highway 72.	None	+327	
Broad River (Upstream)	Approximately 1.6 mile downstream of State Highway 49.	None	+363	Unincorporated Areas of Chester County.
	Approximately 2.2 miles upstream of State Highway 49.	None	+417	
Dry Fork Creek	Approximately 68 feet upstream of the confluence with the Sandy River.	None	+397	City of Chester, Unincorporated Areas of Chester County.
	Approximately 1.3 mile upstream of U.S. Route 321	None	+545	
Fishing Creek	Approximately 1,219 feet downstream of U.S. Route 21.	None	+355	Town of Great Falls, Unincorporated Areas of Chester County.
	Approximately 757 feet upstream of Humpback Bridge Road.	None	+484	
Rocky Creek	Approximately 273 feet downstream of Brooklyn Road	None	+297	Town of Great Falls, Unincorporated Areas of Chester County.
	Approximately 0.5 mile upstream of the confluence with Turkey Creek.	None	+317	
Tanyard Branch	At the confluence with Dry Fork Creek	None	+412	Unincorporated Areas of Chester County.
	Approximately 0.7 mile upstream of Hawthorne Road	+437	+436	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Chester
Maps are available for inspection at City Hall, 100 West End Street, Chester, SC 29706.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Town of Great Falls				
Maps are available for inspection at the Town Hall, 810 Dearborn Street, Great Falls, SC 29055.				
Unincorporated Areas of Chester County				
Maps are available for inspection at the Chester County Government Complex, 1476 J.A. Cochran Bypass, Suite 63, Chester, SC 29706.				
Chesterfield County, South Carolina, and Incorporated Areas				
Bear Creek	At the confluence with Thompson Creek	None	+114	Unincorporated Areas of Chesterfield County.
	Approximately 0.9 mile upstream of Evans Mill Road	None	+130	
Beaver Creek	At the confluence with Thompson Creek	None	+105	Unincorporated Areas of Chesterfield County.
	Approximately 1,960 feet downstream of Teals Mill Road.	None	+116	
Great Pee Dee River	Approximately 200 feet downstream of the confluence with Thompson Creek.	None	+93	Town of Cheraw, Unincorporated Areas of Chesterfield County.
	At the State of South Carolina/State of North Carolina boundary.	None	+110	
Huckleberry Branch	At the confluence with the Great Pee Dee River	+106	+98	Town of Cheraw, Unincorporated Areas of Chesterfield County.
	Approximately 474 feet upstream of Chesterfield Highway.	None	+189	
Huckleberry Branch Tributary	At the confluence with Huckleberry Branch	None	+133	Town of Cheraw, Unincorporated Areas of Chesterfield County.
	Approximately 831 feet upstream of Chesterfield Highway.	None	+175	
Indian Creek	At the confluence with Thompson Creek	None	+122	Town of Chesterfield, Unincorporated Areas of Chesterfield County.
	Approximately 1,743 feet upstream of Avondale Road	None	+176	
Juniper Creek	At the confluence with Thompson Creek	None	+93	Town of Patrick, Unincorporated Areas of Chesterfield County.
	Approximately 2.3 miles upstream of U.S. Route 1	None	+212	
Juniper Creek Tributary 1	At the confluence with Juniper Creek	None	+117	Unincorporated Areas of Chesterfield County.
	Approximately 1,177 feet upstream of McBride Road	None	+168	
Juniper Creek Tributary 2	At the confluence with Juniper Creek	None	+128	Unincorporated Areas of Chesterfield County.
	Approximately 0.6 mile upstream of RD TT 18	None	+198	
Little Juniper Creek	At the confluence with Juniper Creek	None	+131	Unincorporated Areas of Chesterfield County.
	Approximately 1.3 mile upstream of U.S. Route 1	None	+160	
Mill Creek	At the confluence with Juniper Creek	None	+158	Unincorporated Areas of Chesterfield County.
	Approximately 0.9 mile upstream of Wilkes Pond Road.	None	+189	
Thompson Creek	At the confluence with the Great Pee Dee River	None	+93	Town of Chesterfield, Unincorporated Areas of Chesterfield County.
	Approximately 1.4 mile upstream of North Page Street.	None	+174	
Wilson Branch	At the confluence with Huckleberry Branch	+106	+99	Town of Cheraw.
	Approximately 1,767 feet upstream of Jersey Street	None	+157	
Wilson Branch Tributary	At the confluence with Wilson Branch	None	+113	Town of Cheraw, Unincorporated Areas of Chesterfield County.
	Approximately 1,686 feet upstream of Jersey Street	None	+152	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Town of Cheraw

Maps are available for inspection at the Town Hall, 200 Market Street, Cheraw, SC 29520.

Town of Chesterfield

Maps are available for inspection at the Town Hall, 112 East Main Street, Chesterfield, SC 29709.

Town of Patrick

Maps are available for inspection at the Town Hall, 129 Turnage Street, Patrick, SC 29584.

Unincorporated Areas of Chesterfield County

Maps are available for inspection at the County Courthouse, 200 West Main Street, Chesterfield, SC 29709.

Newberry County, South Carolina, and Incorporated Areas

Duncans Creek	Approximately 1,245 feet upstream of the confluence with the Enoree River.	None	+325	Town of Whitmire, Unincorporated Areas of Newberry County.
	Approximately 1,323 feet upstream of the confluence with South Fork Duncan Creek.	None	+360	
Lake Greenwood	Entire shoreline	None	+442	Unincorporated Areas of Newberry County.
Lake Murray	Approximately 0.9 mile upstream of Wheeland Hool Road.	None	+362	Unincorporated Areas of Newberry County.
	Approximately 30 feet upstream of State Highway 391	None	+362	
Mud Creek	Approximately 0.4 mile downstream of New Hope Road.	None	+279	Unincorporated Areas of Newberry County.
	Approximately 1.4 mile upstream of U.S. Route 176	None	+371	
Scotts Creek	At Glenn Road	None	+475	City of Newberry, Unincorporated Areas of Newberry County.
	Approximately 288 feet upstream of Pender Ridge Road.	None	+509	
Timothy Creek	Approximately 251 feet downstream of Cannon Swamp Road.	None	+386	Unincorporated Areas of Newberry County.
	Approximately 1.6 mile upstream of Clara Brown Road.	None	+498	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Newberry

Maps are available for inspection at City Hall, 1330 College Street, Newberry, SC 29108.

Town of Whitmire

Maps are available for inspection at the Town Hall, 210 Main Street, Whitmire, SC 29178.

Unincorporated Areas of Newberry County

Maps are available for inspection at the County Courthouse, 1223 College Street, Newberry, SC 29108.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 1, 2010.

Sandra K. Knight,

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

[FR Doc. 2010–22763 Filed 9–10–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1136]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before December 13, 2010.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1136, to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *roy.e.wright@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Itawamba County, Mississippi, and Incorporated Areas				
Tennessee-Tombigbee Waterway.	Approximately 3.0 miles upstream of the confluence with Coaches Branch.	+250	+251	City of Fulton, Unincorporated Areas of Itawamba County.
	At the Lock D dam	+271	+282	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Tennessee-Tombigbee Waterway.	Approximately 3.7 miles upstream of the confluence with Mud Creek.	None	+300	Unincorporated Areas of Itawamba County.
	Approximately 400 feet upstream of the Lock E dam	None	+330	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (*see below*) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Fulton

Maps are available for inspection at City Hall, 213 West Wiygul Street, Fulton, MS 38843.

Unincorporated Areas of Itawamba County

Maps are available for inspection at the Itawamba County Courthouse, 201 West Main Street, Fulton, MS 38843.

Monroe County, Mississippi, and Incorporated Areas

Burketts Creek	At the confluence with the Tennessee-Tombigbee Canal.	None	+220	City of Amory, Unincorporated Areas of Monroe County.
	At the confluence with Burketts Creek Diversion Channel—Upper Burketts Creek.	None	+242	
Burketts Creek Diversion Channel—Upper Burketts Creek.	At the confluence with the Tennessee-Tombigbee Canal.	+239	+240	City of Amory, Unincorporated Areas of Monroe County.
	Approximately 0.5 mile upstream of Phillips Schoolhouse Road.	+246	+249	
Burketts Creek Tributary No. 1.	At the confluence with Burketts Creek	+238	+239	City of Amory, Unincorporated Areas of Monroe County.
	Approximately 1,055 feet upstream of Tschudi Road	None	+253	
City Ditch	At the confluence with the Tombigbee River	+193	+191	City of Aberdeen, Unincorporated Areas of Monroe County.
	Approximately 1.0 mile upstream of the confluence with the Tombigbee River.	+194	+193	
Old Tombigbee River—Mattubby Creek.	At the confluence with the Tombigbee River	+194	+192	City of Aberdeen, Unincorporated Areas of Monroe County.
	Approximately 0.6 mile upstream of North Meridian Street/Coontail Road.	+196	+197	
Roundhouse Branch	Approximately 500 feet upstream of Dalrymple Drive	+244	+243	City of Amory.
	At the confluence with Burketts Creek Tributary No. 1	+245	+243	
Tennessee Tombigbee Canal	Approximately 1.3 mile downstream of State Highway 278.	+209	+210	City of Amory, Unincorporated Areas of Monroe County.
	At the Lock B dam	+223	+236	
Tombigbee River	Approximately 10.3 miles downstream of U.S. Route 45.	+187	+188	City of Aberdeen, Unincorporated Areas of Monroe County.
	Approximately 9.5 miles upstream of U.S. Route 45	+208	+207	
Weaver Creek	At the confluence with the Tombigbee River	+207	+206	Unincorporated Areas of Monroe County.
	Approximately 2.3 miles upstream of the confluence with the Tombigbee River.	+207	+206	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (*see below*) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Aberdeen

Maps are available for inspection at City Hall, 125 West Commerce Street, Aberdeen, MS 39730.

City of Amory

Maps are available for inspection at City Hall, 109 Front Street South, Amory, MS 38821.

Unincorporated Areas of Monroe County

Maps are available for inspection at the Monroe County Courthouse, 301 South Chestnut Street, Aberdeen, MS 39730.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 1, 2010.

Sandra K. Knight,

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

[FR Doc. 2010–22762 Filed 9–10–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053

[Docket No. DHS–2009–0085; HSAR Case 2009–002]

RIN 1601–AA28

Homeland Security Acquisition Regulation (HSAR); Revision Initiative

AGENCY: Office of the Chief Procurement Officer, DHS.

ACTION: Proposed rule with request for comments.

SUMMARY: DHS is proposing to amend multiple sections of the Homeland Security Acquisition Regulation (HSAR) to align existing content with the Federal Acquisition Regulation (FAR); to implement Section 695 of the Post-Katrina Emergency Management Reform Act of 2006; to clarify agency acquisition regulations; and to provide editorial corrections. The HSAR Part 3006 proposed amendment reflects the necessary implementation for the statutory change restricting the length of certain noncompetitive contracts entered into by the Department of Homeland Security to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

DATES: Comments must reach the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, on or before November 12, 2010, to be considered in the formulation of the final rule.

ADDRESSES: Please submit written comments, identified by agency name and docket number DHS–2009–0085, by *one* of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.* To submit comments, follow instructions on *www.regulations.gov* and use docket number DHS–2009–0085.

(2) By mail to the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, ATTN: Teresa McConahie, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Teresa McConahie, Senior Procurement Analyst, at (202) 447–0271 for clarification of content.

SUPPLEMENTARY INFORMATION:

I. Request for Comments
II. Background
III. Discussion of Proposed Rule
IV. Regulatory Analyses
A. Executive Order 12866 Assessment
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Executive Order 13132 (Federalism)
E. National Environmental Policy Act

I. Request for Comments

Interested persons are invited to participate in this rulemaking by submitting written data, views or arguments on all aspects of this proposed rule. Comments should be organized by Homeland Security Acquisition Regulation (HSAR) Part, and address the specific section that is being commented on. All comments received will be posted without change to *http://regulations.gov,* including any personal information provided. See **ADDRESSES** above for information on how to submit comments. If you submit comments by mail, please submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you would like DHS to acknowledge receipt of comments submitted by mail, please enclose a self-addressed, stamped post card or envelope. DHS will consider all comments and material received during the comment period.

Docket: For access to the docket in order to read background documents or comments received, go to *http://www.regulations.gov,* follow the instructions or review the FAQs tab on the home page.

II. Background

This proposed rule would amend the Department's acquisition regulation which was initially issued in 2003. 68 FR 67871 (Dec. 4, 2003) as amended at 71 FR 25767 (May 2, 2006). Section 695 of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109–295, 120 Stat. 1394, 1460 (Oct. 4, 2006), directed the Secretary to promulgate regulations establishing a 150-day contract period limit for declared disaster-or-recovery-related contracts "entered into using procedures other than competitive procedures." Contracts to be covered by the proposed section 695 PKEMRA

regulation are those awarded in response to or recovery from certain events: (1) A major disaster or emergency declared by the President; (2) an uncontrolled fire that the Federal Emergency Management Agency has approved under a fire management assistance declaration; or (3) an incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support. Following is a description of events and processes leading to such declarations or designations.

Stafford Act Major Disaster or Emergency Declaration

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207 (The Stafford Act), and its implementing regulations at 44 CFR part 206 set forth a process for a Governor to request the President to declare a major disaster or emergency:

○ If an event is beyond the combined response capabilities of the State and affected local governments; and

○ If, based on the findings of a joint Federal-State-local Preliminary Damage Assessment (PDA), the damages are of sufficient severity and magnitude to warrant assistance under the Stafford Act. In a particularly fast-moving or clearly devastating disaster, there may be an expedited declaration, and the PDA may be deferred until after the declaration.

○ The President may direct emergency assistance without a Governor's request if an incident occurs that involves a subject area that is exclusively or preeminently the responsibility of the United States. The President will consult the Governor of any affected State, if practicable.

○ FEMA may provide accelerated Federal assistance and support where necessary to save lives, prevent human suffering, or mitigate severe damage, even in the absence of a specific request. The Governor of the affected State will be consulted if practicable, but this consultation shall not delay or impede the provision of such rapid assistance.

Fire Management Assistance Declarations

The Governor of a State submits the request for a fire management assistance declaration to the Regional Director while the fire is burning uncontrolled. The Regional Director gathers the State's information, calls upon the Principal Advisor for an assessment, and develops a Regional summary and recommendation to be forwarded to the FEMA Recovery Division Director, or designee. The FEMA Recovery Division Director approves or denies the State's request based on:

The conditions that existed at the time of the State's request;

Whether or not the fire or fire complex threatens such destruction as would constitute a major disaster.

There are four criteria in which the FEMA Recovery Division Director, or designee, evaluates the threat posed by a fire or fire complex:

- Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;
- Availability of State and local firefighting resources;
- High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System; and
- Potential major economic impact.

After rendering a determination, the FEMA Recovery Division Director, or designee, notifies the Regional Director, who in turn notifies the State.

Designation of Federal Resource Coordinator in Non-Stafford Act Situations

The Department of Homeland Security (DHS) sometimes takes action to support a Federal department or agency that has requested DHS assistance in handling a disaster that falls under the requesting department or agency's jurisdiction. Key operational units that may be activated include the National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), and Joint Field Office (JFO).

Federal departments and agencies routinely manage the response to incidents under their statutory or executive authority that do not require the assistance of other Federal agencies. When a Federal entity with primary responsibility and authority for handling an incident requires assistance, that agency may request DHS coordination of Federal multiagency assistance. In such cases, DHS coordinates assistance using the procedures and structures within the *National Response Framework.* Generally, the requesting agency funds the participation of other Federal departments and agencies in accordance with provisions of the Economy Act unless other pertinent authorities exist.

To initiate Federal-to-Federal support, the requesting agency submits a request for assistance to the DHS Executive Secretary via the National Operations Center (NOC). Requests include a summary of the situation, types and amount of resources needed, financial information, and any other appropriate details. Upon approval of the request, the Secretary of Homeland Security issues an operations order to the NOC. The NOC, through the NRCC, coordinates the activation of the appropriate Emergency Support Functions. The Secretary of Homeland Security designates a Federal Resource Coordinator (FRC) to manage Federal resource support. In circumstances requiring extraordinary coordination, the Secretary may appoint a Principal Federal Official to serve as his or her representative in the field.

The requesting agency then designates a senior official to work in coordination with the FRC as part of the Unified Coordination Group to identify and define specific support requirements. The requesting agency also provides comptrollers to the NRCC, RRCC, and JFO, as appropriate, to oversee financial management activities. An RRCC may be fully or partially activated to facilitate the deployment of resources until a JFO is established. Facilities, such as mobilization centers, may be established to accommodate personnel, equipment, and supplies. Federal agencies provide resources under interagency reimbursable agreements or their own authorities.

Although the Department considered establishing separate disaster declaration standards applicable only to section 695, the Department determined it was not wise. Declaration of a disaster under such separate 695 standards would likely confuse the public if the President or other recognized officials did not make a declaration for the same incident under the Stafford Act or other pre-existing authority.

In addition to fulfilling this Congressional mandate, this proposed rule would further align HSAR with the FAR by, among other changes, adding new departmental procedures to implement recent regulatory changes on contractor disclosures; clarifying existing content or policy, such as release of contract information; making editorial revisions of prior content, such as correcting typographical errors and Web site addresses; and making changes to other administrative information.

III. Discussion of Proposed Rule

This proposed rule would amend 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053. The proposed changes to 48 CFR

part 3006 would implement section 695 of the PKEMRA. DHS proposes to change the HSAR as described below.

Part 3001 Federal Acquisition Regulations System

- Add an authority section 3001.103.
- Add one acquisition office, Office of Selective Acquisitions (OSA), to the arrangement of regulations section at HSAR 3001.105–2.
- Update information in HSAR 3001.105–3 for finding the HSAR, including accessing the HSAR online and add an internet site for accessing the Homeland Security Acquisition Manual (HSAM).
- Remove the TSA exception to HSAR in HSAR 3001.301, which was inadvertently not removed when a technical amendment (73 FR 30318, May 27, 2008) was published, and provide edits or corrections for clarity throughout HSAR 3001 subparts.

Part 3002 Definitions of Words and Terms

- Add an additional office within components—the Office of Selective Acquisitions (OSA) within the DHS Management Directorate.
- Amend the definition of "Head of the Contracting Activity (HCA)" to align with the FAR and provide the designated organization positions.
- Amend the definition of "Senior Procurement Executive (SPE)" to identify his or her responsibilities under 41 U.S.C. 414(c).
- Amend the first paragraph in the definition of "Sensitive Information" to conform it to the related HSAR clause in 3052.204–71.
- Remove the definition of "simplified acquisition threshold" because there is no longer a need for a specialized definition given the prior removal of HSAR 48 CFR 3013.7004. 73 FR 30317, 30318, May 27, 2008.

Part 3003 Improper Business Practices and Personal Conflicts of Interest

- Amend HSAR 3003.101–3 by expanding the reference to United States Office of Government Ethics regulations on the conduct and responsibilities of employees contained in 5 CFR part 2635, to OGE regulations in parts 2634 through 2641, and by eliminating the reference to a DHS replacement management directive.
- Amend paragraph (a) of HSAR 3003.204 by adding reference to FAR 3.204(a); amend paragraph (b) to make the HCA, rather than the Chief of the Contracting Office (COCO), responsible for ensuring that hearing procedures required by FAR 3.204(b) are afforded the contractor; and amend paragraph (c) to add notification to the Office of Inspector General. References to "Government legal counsel" are changed to "DHS legal counsel" for consistency with the HSAR definition of "legal counsel" at HSAR 3002.101 and usage conventions.
- Add a new HSAR subpart 3003.10, Contractor Code of Business Ethics and Conduct, with instructions to contractors in HSAR 3003.1003 for making disclosure reports. This section lists a DHS Web site for obtaining the online, Contractor Disclosure Form provided by the DHS Office of Inspector General. HSAR section 3003.1004 paragraph (a) contains directions for the contracting officer to insert a clause in solicitations and contracts with instructions for contractor disclosure of violations. Paragraph (b) of HSAR section 3003.1004 advises contracting officers that special posters and instructions may be issued for activities using disaster recovery funds and provides the Web site for obtaining the DHS Hotline Poster described in the clause at FAR 52.203–14.

Part 3004 Administrative Matters

Revise HSAR 3004.470 content for consistency and correct publication titles for previously identified DHS Security Directive and Handbook, and remove HSAR 3004.804–1 and its $3-million-or-less-estimated-contract-amount limitation on the use of quick closeout procedures to allow for Contracting Officer's flexibilities for contract closeout procedures.

Part 3005 Publicizing Contract Actions

Add HSAR 3005.470, Contractor Award Announcements, Advertisements, and Releases, which addresses DHS policy that precludes contractors from referring to DHS contracts in commercial advertising in a manner that states or implies the Government approves or endorses the product or service or considers it superior to other products or services. It also incorporates the requirement from HSAR 3052.242–71 for advance approval of the contracting officer for release of contract information under contracts that involve sensitive or classified information. DHS is combining the coverage into a single clause, HSAR 3052.205–xx and its alternate, to eliminate the potential for confusion and facilitate post-award contract management.

Part 3006 Competition Requirements

Add the implementation of section 695 of the Department of Homeland Security Appropriations Act, 2007, Public Law 109–295, Title VI, which establishes a limitation on the length of certain noncompetitive contracts. The law restricts the period of performance to 150 days for contracts above the simplified acquisition threshold that have been entered into by DHS to facilitate the response and recovery from a natural disaster, act of terrorism, or other man-made disaster, where the award was made with other than full and open competition under the FAR subpart 6.302–2, Unusual and Compelling Urgency. In order to implement the statutory requirement, DHS proposes to add: HSAR 3006.302–1, Only one responsible source and no other supplies or services will satisfy agency requirements; HSAR 3006.302–270, Unusual and Compelling Urgency; HSAR 3006.303, Justifications, HSAR 3006.303–270, Contents, and HSAR 3006.304, Approval of the Justification.

Part 3009 Contractor Qualifications

Add HSAR 3009.403 to identify the HCA as the debarring and suspending official without authority to redelegate.

Part 3012 Acquisition of Commercial Items

Remove the HSAR Part 3012 "Reserved" identification and add new content, including the prescription for the new HSAR clause, 3052.212–XX, Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items.

Part 3018 Emergency Acquisitions

Remove HSAR Part 3018 "Reserved" identification and add a reference in HSAR 3018 for Emergency Acquisitions and Available Acquisition Flexibilities.

Part 3023 Environment, Conservation, Occupational Safety, and Drug-Free Workplace

Amend HSAR Part 3023 to align with the current FAR Part 23 title and provide information regarding the DHS Sustainable Practices policy.

Part 3033 Protests, Disputes, and Appeals

Amend HSAR 3033 to add instructions that ensure protests involving classified information for the Office of Selective Acquisitions (OSA) are transmitted through appropriately cleared individuals at GAO, the United States Federal Court of Claims, or internal protest resolution officials.

Part 3035 Research and Development Contracting

Amend HSAR 3035.70 to remove section 3035.7000, add a section 3035.70–1 to clarify DHS policy regarding dissemination of non-

sensitive research information by educational institutions, and add a section 3035.70–2 to clarify the prescription for using the clause at HSAR 3052.235–70 for contracts that do not involve sensitive or classified information and to instruct the contracting officer to prepare an appropriate clause for contracts involving sensitive or classified information.

Part 3036 Construction and Architect-Engineer Contracts

Remove HSAR 3036.2, to align with FAR Case 2006–022 changes (74 FR 31557, July 1, 2009), effective July 1, 2009, which moved the associated FAR 36 content to FAR subpart 42.15.

Part 3042 Contract Administration and Audit Services

• Amend HSAR 3042.1502 to identify the Contractors Performance Assessment Reporting System (CPARS) and its modules, Construction Contractor Appraisal Support System (CCASS) for construction contracts and Architect-Engineer Contract Administration Support System (ACASS) for architect-engineer contracts to report contractor performance. CPARS replaces the National Institute of Health's CPS as the designated system for DHS reporting on contractor performance.

• Delete HSAR 3042.202–70 which prescribed the clause at HSAR 3052.242–71. The changes at HSAR 3005.470, 3035.70, 3052.205–XX and 3052.235–70 provide coverage on dissemination of contract information.

Part 3045 Government Property

Remove the content in HSAR Part 3045 which is obsolete as a result of the FAR Part 45 rewrite. (72 FR 27364, May 15, 2007)

Part 3052 Solicitation Provisions and Contract Clauses

• Add the new clause at HSAR 3052.203–XX Instructions for Contractor Disclosure of Violations.

• Amend HSAR clause 3052.204–71 to provide typographical corrections and remove the Department of State publication which is no longer published and replace with appropriate guidance.

• Add the new clause at HSAR 3052.205–XX Advertisements, Publicizing Awards, and Releases, and its Alternate I.

• Add the new clause HSAR 3052.212–XX, Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items.

• Amend clause HSAR 3052.216–71, Determination of Award Fee to delete the content addressing rollover of award fee amounts from one period to subsequent periods to align with the OMB guidance, Appropriate Use of Incentive Contracts issued December 4, 2007.

• Amend the reference to the prescription of HSAR 3052.235–70 for consistency with changes to HSAR 3035.70–2.

• Delete the clauses at HSAR 3052.242–71 and 3052.245–70. Procedures for dissemination of information will be incorporated into HSAR 3052.205–XX. HSAR 3052.245–70 clause is rendered obsolete with the Part 3045 removal.

• Add a note to HSAR 3052.101 identifying where the HSAR Provision and Clause matrix can be found on the DHS Web site at *http://www.dhs.gov/xopnbiz/* under Policy and Regulations, Homeland Security Acquisition Regulation (HSAR).

Other technical corrections include editing DHS Form numbers in the HSAR regulatory text in Parts 3004, 3022, and 3053 to conform to the DHS published forms numbers and removal of HSAR 3053.245–70, Report of Government property to conform to the removal of Part 3045 content.

IV. Regulatory Analyses

A. Executive Order 12866 Assessment

This is not a significant regulatory action under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. The Office of Management and Budget has not reviewed it under the Order. This proposed rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the term "small entities" comprises of small businesses, not for profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000. DHS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because the rule applies to internal approval procedures, supplements the Federal Acquisition Regulations, and is intended to clarify or eliminate existing agency acquisition regulations and policies. DHS has not performed an initial regulatory flexibility analysis. DHS invites comments from small entities and other interested parties. Such comments should be submitted separately and should cite HSAR Case 2009–002. *See* **ADDRESSES** above for information on how to submit comments.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Budget and Management (OMB), for review and approval any reporting requirements inherent in a rule.

The Paperwork Reduction Act applies to this proposed rule. However, the information collection requirements imposed by the provisions 3052.205–XX and 3052.212–XX are currently covered by the approved information collection requirements for provisions (OMB Clearance numbers 1600–0003, Post-Contract Award Information, and 1600–0005, Solicitation of Proposal Information for Award of Public Contracts). DHS considers that any changes due to the use of these clauses will be within the estimated hours for the existing approved OMB clearance. The clause at 3052.203–XX does not create a new information collection requirement. It provides a format for contractors to use when making a disclosure under FAR 3.1003 and 52.203–13. The FAR disclosure requirements are approved under OMB Clearance Number 9000–0164.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Use of these two information collections, 1600–0003 and 1600–0005, has been approved by OMB until January 31, 2012, and October 31, 2011, respectively.

D. Executive Order 13132 (Federalism)

The proposed rule would not have 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. Therefore, in accordance with section 6 of Executive Order 13132, DHS has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism impact statement.

E. National Environmental Policy Act

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 which guides the Department in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have made a preliminary determination this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule, which does not involve any extraordinary circumstances, appears to be categorically excluded under paragraphs A3(b) and A3(d) in Table I of Appendix A of Directive 023–01 because it implements legislation and amends acquisition regulations without changing the regulations' environmental effect. We seek comments or information pertinent to these determinations.

List of Subjects in 48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052 and 3053

Government procurement.

Dated: August 26, 2010.

Richard K. Gunderson,

Acting Chief Procurement Officer, Department of Homeland Security.

Accordingly, DHS amends 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053 as follows:

1. The authority citation for 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052 and 3053 continues to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

PART 3001—FEDERAL ACQUISITION REGULATION SYSTEM

2. Amend Subpart 3001.1 by adding section 3001.103 to read as follows:

3001.103 Authority.

The HSAR is issued by DHS's Chief Procurement Officer, who is the Senior Procurement Executive (SPE), see 41 U.S.C. 414 and DHS Delegation Number 0700, under authority of 5 U.S.C. 301–302, the Office of Federal Procurement Policy Act, Public Law 93–400, 88 Stat. 796 (1974), including sections 22 and 25, 41 U.S.C. 418b and 421, and (FAR) 48 CFR part 1, subpart 1.3.

3. Amend section 3001.105–2 by revising paragraph (a) to read as follows:

3001.105–2 Arrangement of regulations.

(a) *General.* The HSAR, which encompasses both Department-wide and Component-unique guidance, conforms to the arrangement and numbering system prescribed by (FAR) 48 CFR 1.105–2. Guidance that is unique to a Component contains the organization's acronym or abbreviation directly following the title. The following acronyms and abbreviations apply:

DHS Management (MGMT), including the Office of Procurement Operations (OPO) and the Office of Selective Acquisitions (OSA);

Federal Emergency Management Agency (FEMA);

Federal Law Enforcement Training Center (FLETC);

Transportation Security Administration (TSA);

U.S. Coast Guard (USCG);

U.S. Customs and Border Protection (CBP);

U.S. Immigration and Customs Enforcement (ICE); and

U.S. Secret Service (USSS).

4. Revise section 3001.105–3 to read as follows:

3001.105–3 Copies.

Official versions of the HSAR are available in the Code of Federal Regulations, as supplemented and revised from time to time by the **Federal Register**, both of which are available from the Government Printing Office in paper and electronic form. The HSAR is also available in electronic form at *http://www.dhs.gov.* A convenient but unofficial up-to-date version of the HSAR is also available from the Government Printing office at *http://www.gpoaccess.gov/ecfr/index.html.* The Homeland Security Acquisition Manual (HSAM), which complements the HSAR, can also be found at *http://www.dhs.gov.*

5. In section 3001.301, revise paragraph (a)(1) to read as follows:

3001.301 Policy.

(a)(1) The HSAR is issued for Departmental guidance according to the policy cited in (FAR) 48 CFR 1.301. The HSAR establishes uniform Department of Homeland Security policies and procedures for all acquisition activities within the Department of Homeland Security. Component supplemental acquisition regulations to be inserted in the HSAR as a HSAR supplement regulation must be reviewed and approved by the Chief Procurement Officer (CPO) before the CPO authorizes and submits the proposed content for publication in the Federal Register under (FAR) 48 CFR part 1, subparts 1.3 and 1.5.

* * * * *

3001.301–70 [Amended]

6. Amend section 3001.301–70 in paragraph (a) introductory text by removing "20598" and adding "20528" in its place.

7. In section 3001.301–71, revise paragraph (c) to read as follows:

3001.301–71 Effective Date.

* * * * *

(c) Contracting officers must modify existing contracts to include HSAR changes where required to do so by law. Otherwise, contracting officers should consider using the Changes clause, where feasible, or other suitable authority, to modify existing contracts to include HSAR changes.

8. In section 3001.303, revise paragraph (a)(3) to read as follows:

3001.303 Publication and codification.

(a) * * *

(3) Coverage in HSAR chapter 30 that supplements the FAR will use part, subpart, section, and subsection numbers ending in "70" through "89". A series of numbers beginning with "70" is used for provisions and clauses (*e.g.,* (HSAR) 48 CFR 3001.301–70).

* * * * *

3001.304 [Amended]

9. Amend section 3001.304 in paragraph (a) by adding the words "Department of" before the words "Homeland Security" in the first sentence.

3001.403 [Amended]

10. Amend section 3001.403 by removing the word "deviation" in the first sentence and adding the word "deviations" in its place.

3001.602–3 [Amended]

11. Amend section 3001.602–3 by removing the words "Department of Homeland Security (DHS)" in the first sentence and adding in their place "DHS".

PART 3002—DEFINITIONS OF WORDS AND TERMS

12. Amend section 3002.101 by removing the definition of "Simplified acquisition threshold" and revising the definitions of "Component", "Head of the Contracting Activity (HCA)", "Senior Procurement Executive (SPE)", and the introductory paragraph of the "Sensitive Information" definition to read as follows:

3002.101 Definitions.

* * * * *

Component means the following entities for purposes of this chapter:

(1) DHS Management (MGMT), including the Office of Procurement Operations (OPO) and the Office of Selective Acquisitions (OSA);

(2) Federal Emergency Management Agency (FEMA);

(3) Federal Law Enforcement Training Center (FLETC);
(4) Transportation Security Administration (TSA);
(5) U.S. Coast Guard (USCG);
(6) U.S. Customs and Border Protection (CBP);
(7) U.S. Immigration and Customs Enforcement (ICE); and
(8) U.S. Secret Service (USSS).

* * * * *

Head of the Contracting Activity (HCA) means the official who has overall responsibility for managing the contracting activity. For DHS, the HCAs are:
(1) Director, Office of Procurement Operations (OPO);
(2) Director, Office of Selective Acquisitions (OSA);
(3) Director, Procurement (FEMA)
(4) Chief, Procurement Division (FLETC);
(5) Assistant Administrator for Acquisition (TSA);
(6) Director of Contracting and Procurement (USCG);
(7) Executive Director, Procurement (CBP);
(8) Director, Office of Acquisition Management (ICE); and
(9) Chief, Procurement Operations (USSS).

* * * * *

Senior Procurement Executive (SPE) for the Department of Homeland Security means the DHS Chief Procurement Officer (CPO), who is the individual appointed pursuant to 41 U.S.C. 414(c) to be responsible for management direction of the procurement system of DHS, including implementation of the unique procurement policies, regulations, and standards of DHS.

Sensitive Information, as used in this Chapter, means any information which if lost, misused, disclosed, or, without authorization, is accessed or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

* * * * *

3002.270 [Amended]

13. Amend the abbreviation list entry in section 3002.270 by removing "HCA Head of Contracting Activity" and adding in its place "HCA Head of the Contracting Activity".

PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

14. Revise section 3003.101–3 to read as follows:

3003.101–3 Agency regulations.

The United States Office of Government Ethics has promulgated regulations applicable to the entire Executive Branch that address the conduct matters referenced in (FAR) 48 CFR 3.101–3. *See* 5 CFR vol. 3, ch. XVI, subch. B. The Department of Homeland Security has also issued Management Directive 0480.1, Ethics/Standards of Conduct.

15. Revise section 3003.204 to read as follows:

3003.204 Treatment of violations.

(a) The HCA is the official designated to make the determination under (FAR) 48 CFR 3.204(a) whether a gratuities violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of the DHS legal counsel should be sought to determine whether the CPO should designate an alternate decision maker.

(b) The HCA shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are afforded to the contractor. DHS legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred the HCA shall consult with DHS legal counsel regarding appropriate action and notify the Office of Inspector General.

16. Add Subpart 3003.10 to read as follows:

Subpart 3003.10—Contractor Code of Business Ethics and Conduct

Sec.
3003.1003 Requirements.
3003.1004 Contract clauses.

Subpart 3003.10—Contractor Code of Business Ethics and Conduct

3003.1003 Requirements.

(a) *Contractor requirements.* Contractors making written disclosures under the clause at (FAR) 49 CFR 52.203–13 must use the electronic form at *http://www.dhs.gov/xoig/gc_1233236886677.shtm.* Contractors making disclosures under contracts which do not contain the clause at (FAR) 48 CFR 52.203–13 are encouraged to also use this electronic form.

3003.1004 Contract clauses.

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.203–XX, Instructions for Contractor Disclosure of Violations, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.203–13.

(b)(1) There may be different or additional DHS OIG hotline posters for specific events. When the DHS OIG publishes a specific event hotline poster, DHS will notify the Office of Federal Procurement Policy for further instructions on dissemination.

(2)(ii) The contracting officer should complete paragraph (b)(3) of the clause at (FAR) 48 CFR 52.203–14 by identifying the Web site from which the hotline poster can be obtained, *http://www.dhs.gov/xoig/assets/DHS_OIG_Hotline.pdf,* or the Web site from which the Disaster Fraud Hotline poster can be obtained for use in contracts involving disaster relief operations, *http://www.dhs.gov/xoig/assets/DHS_OIG_Hotline_Fraud.pdf.*

PART 3004—ADMINISTRATIVE MATTERS

17. Amend section 3004.470–2 by revising paragraph (a) to read as follows:

3004.470–2 Policy.

(a) DHS's policies and procedures on contractor personnel security requirements are set forth in various management directives (MDs), Directives, and Instructions. MD 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information describes how contractors must handle sensitive but unclassified information. The DHS Sensitive Systems Policy Directive 4300A and the DHS 4300A Sensitive System Handbook, provide the policies and procedures on security for Information Technology resources. Compliance with these policies and procedures, as amended, is required.

* * * * *

3004.470–3 [Amended]

18. Amend section 3004.470–3 in paragraph (b) in the second sentence by removing the word "Officers" and adding "officers" in its place.

3004.804–1 [Removed]

19a. Remove section 3004.804–1.

19b. In section 3004.804–570, revise paragraphs (a)(1) through (a)(3) to read as follows:

3004.804–570 Supporting closeout documents.

(a) * * *

(1) DHS Form 700–3, Contractor's Release (*e.g.,* see (FAR) 48 CFR 52.216–7);

(2) DHS Form 700–2, Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts (*e.g.,* see (FAR) 48 CFR 52.216–7);

(3) DHS Form 700–1, Cumulative Claim and Reconciliation Statement (*e.g.,* see (FAR) 48 CFR 4.804–5(a)(13); and

* * * * *

PART 3005—PUBLICIZING CONTRACT ACTIONS

20. Amend Subpart 3005.4 by adding sections 3005.470, 3005.470–1, and 3005.470–2 to read as follows:

3005.470 Contractor award announcements, advertisements, and releases.

3005.470–1 Policy.

(a) DHS policy requires its contracting officers to restrict DHS contractors from referring to its DHS contract(s) in commercial advertising in a manner that states or implies the Government approves or endorses the contractor's products or services or considers them superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

(b) The Department's contractors share the responsibility for protecting sensitive and classified information related to efforts under their contracts. For any contract that involves sensitive or classified information, prior to the release of any contract award announcement, advertisement, or other release of information pertaining to the contract, the contractor must obtain the approval of the responsible contracting officer.

3005.470–2 Contract clauses.

(a) Insert the clause at (HSAR) 48 CFR 3052.205–XX, Advertisements, Publicizing Awards, and Releases, in all solicitations and contracts that exceed the simplified acquisition threshold.

(b) Except for research contracts with educational institutions, if the contract involves sensitive or classified information, use the clause with its Alternate I. For research contracts with educational institutions, see (HSAR) 48 CFR 3035.70–2(b).

PART 3006—COMPETITION REQUIREMENTS

21. Amend subpart 3006.3 by adding sections 3006.302–1, 3006.302–270, 3006.303, 3006.303–270, 3006.304, and 3006.304–70 to read as follows:

Subpart 3006.3—Other Than Full and Open Competition

* * * * *

3006.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.
3006.302–270 Unusual and compelling urgency.

* * * * *

3006.303 Justifications.
3006.303–270 Content.
3006.304 Approval of justification.
3006.304–70 DHS Approval of justification.

3006.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(b)(4) The contracting officer may rely on this exception in the case where only one source is available to provide additional units or replacement items under a specific make and model requirement, but only where the CPO has determined in accordance with the agency's standardization program that only the specific make(s) and model(s) will satisfy the agency's needs.

3006.302–270 Unusual and compelling urgency.

(c)(3) For contract awards to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster, that relies on this exception, the period of performance shall be limited to the minimum period necessary to meet the urgent and compelling requirements of the work to be performed and to enter into another contract for the required goods or services through the use of competitive procedures, but in no event shall the period of performance exceed 150 days, unless the Head of the Contracting Activity (or higher approval authority if required by (FAR) 48 CFR 6.304 or DHS procedures) determines that exceptional circumstances apply, approving the justification as set forth in (HSAR) 48 CFR 3006.304. The limitation on the period of performance applies to contracts awarded in response to, or to recovery from:

(i) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5207) (see *http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations);

(ii) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (see *http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations); or

(iii) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

* * * * *

3006.303 Justifications.

3006.303–270 Content.

(a)(9)(iv) For a proposed contract subject to the restrictions of (HSAR) 48 CFR 3006.302–270(c)(3) and where (FAR) 48 CFR 6.302–2 is cited as the authority, the exceptional circumstances allowing for an award for a period of performance in excess of 150 days.

3006.304 Approval of justification.

3006.304–70 DHS Approval of justification.

A justification for other than full and open competition that cites (FAR) 48 CFR Part 6.302–2 as its authority shall be approved in writing by the HCA (unless a higher approval authority is required in accordance with (FAR) 48 CFR Part 6.304 or DHS procedures) for a proposed DHS contract to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster with a period of performance in excess of 150 days. The justification should make plain the exceptional circumstances that justify the duration of the contract. This authority may not be redelegated by the HCA.

PART 3009—CONTRACTOR QUALIFICATIONS

22. Amend subpart 3009.4 by adding section 3009.403 to read as follows:

3009.403 Definitions.

Debarring official means the Head of the Contracting Activity (HCA). The authority to impose debarment may not be redelegated by the HCA.

Suspending official means the HCA. The authority to impose suspension may not be redelegated by the HCA.

23. Add part 3012 to read:

PART 3012—ACQUISITION OF COMMERCIAL ITEMS

Subpart 3012.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

Sec.
3012.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

Authority: 5 U.S.C. 301–302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

3012.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) Solicitation provisions and contract clauses. Insert (HSAR) 48 CFR 3052.212–70, Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items, in any solicitation or contract for commercial items when any of the provisions or clauses listed therein applies and where incorporation by reference of each selected provision or clause is, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause.

24. Add part 3018 to read:

PART 3018—EMERGENCY ACQUISITIONS

Subpart 3018.1—Available Acquisition Flexibilities

Sec.
3018.109 Priorities and allocations.

Authority: 5 U.S.C. 301–302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

3018.109 Priorities and allocations.

DHS Components may assign priority ratings on contracts and orders as authorized by the Defense Priorities and Allocation System (DPAS). (See (HSAR) 48 CFR 3011.602.)

PART 3022—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

25. Amend section 3022.406–9(c)(1) by removing "DHS Form 0700–04" and adding in its place "DHS Form 700–4".

PART 3023—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

26. Amend Part 3023 by revising the heading to read as set forth above.

* * * * *

3023.1002 [Removed]

27a. Amend subpart 3023.10 by removing section 3023.1002.

27b. Add section 3023.1004 to read as follows:

3023.1004 Requirements.

DHS Directive 023–02 Environmental Compliance Program provides guidance and direction for compliance with environmental laws, regulations and executive orders. DHS Directive 025–01, Sustainable Practices for Environmental, Energy and Transportation, provides guidance and direction for compliance with green purchasing and other sustainable practices contained in Executive Order 13423. Contracting officers shall ensure that solicitations and contracts contain appropriate sustainable practices requirements, provisions and clauses. Contractors shall support the DHS Environmental Policy by taking appropriate actions to eliminate or reduce their impacts on the environment.

PART 3033—PROTESTS, DISPUTES, AND APPEALS

28. Amend part 3033 by adding subpart 3033.1 to read as follows:

Subpart 3033.1—Protests

Sec.
3033.102 General.
3033.102–90 Protests on classified solicitations (OSA).

3033.102–90 Protests on classified solicitations (OSA).

To ensure that classified information is protected and appropriate security measures are coordinated as required, protests involving classified solicitations issued by the Office of Selective Acquisitions (OSA) shall be submitted directly to the contracting officer for further transmission to the GAO, the United States Court of Federal Claims, or for internal resolution in the case of agency protests. Specific instructions will be provided in Section L of the solicitation.

PART 3035—RESEARCH AND DEVELOPMENT CONTRACTING

3035.7000 [Removed]

29a. Amend subpart 3035.70 by removing section 3035.7000.

29b. Add sections 3035.70–1 and 3035.70–2 to read as follows:

3035.70–1 Policy.

The Department of Homeland Security (DHS) desires widespread dissemination of the results of funded non-sensitive research. The Contractor, therefore, may publish (subject to the provisions of the "Data Rights" and "Patent Rights" clauses of the contract) research results in professional journals, books, trade publications, or other appropriate media.

3035.70–2 Contract clause.

(a) The contracting officer shall use the clause at (HSAR) 48 CFR 3052.235–70, Dissemination of Information—Educational Institutions, in contracts with educational institutions for research that is not sensitive or classified.

(b) If the contract involves sensitive or classified research, the contracting officer shall prepare and insert a Special Contract Requirement that conditions dissemination upon the approval of a designated Government official.

PART 3036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

3036.201 [Removed]

30. Remove section 3036.201.

PART 3042—CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subpart 3042.2—[Removed]

31. Remove subpart 3042.2.

32. Revise section 3042.1502 to read as follows:

3042.1502 Policy.

(a) Components shall use the Contractor Performance Assessment Reporting System (CPARS) or other performance reporting system as designated by the DHS Chief Procurement Officer for evaluating contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 42.1503.

(e) Components shall use the *Construction Contractor Appraisal Support System* (CCASS) module of CPARS, or other performance reporting system as designated by the DHS Chief Procurement Officer for evaluating construction contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 42.1503.

(f) Components shall use the Architect-Engineer Contract Administration Support System (ACASS) module of CPARS or other performance reporting system as designated by the DHS Chief Procurement Officer for evaluating architect-engineer contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 42.1503.

PART 3045—[REMOVED AND RESERVED]

33. Under the authority of 5 U.S.C. 301–302, part 3045 is removed and reserved.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

34. Amend section 3052.101 by adding the following note at the end of the section to read as follows:

3052.101 Using Part 3052.

* * * * *

Note to 3052.101: The solicitation provisions and contract clauses matrix referencing all HSAR provisions and clauses is available at *http://www.dhs.gov/xopnbiz/* under Policy and Regulations, Homeland Security Acquisition Regulation (HSAR).

35. Amend subpart 3052.2 by adding 3052.203–XX to read:

3052.203–XX Instructions for Contractor Disclosure of Violations.

As prescribed in (HSAR) 48 CFR 3003.1004(a), insert the following clause:

Instructions for Contractor Disclosure of Violations

(MON XXXX)

When making a written disclosure under the clause at FAR 52.213–13, paragraph (3), the Contractor shall use the form at *http://www.dhs.gov/xoig/gc_1233236886677.shtm* and submit the disclosure electronically to the Department of Homeland Security Office of Inspector General. The Contractor shall provide a copy of the disclosure to the Contracting Officer by e-mail or facsimile on the same business day as the submission to the Office of Inspector General. The Contractor shall provide the Contracting Officer a concurrent copy of any supporting materials submitted to the Office of Inspector General.

36–37. Amend section 3052.204–71:

a. By capitalizing the first letter of every occurrence of the words "contractor" and "government" and by revising paragraph (a) of the clause; and

b. In Alternate I by capitalizing the first letters of every occurrence of the words "contractor" and "contracting officer" in the alternate content and by revising paragraph (k)(1) of the alternate.

The revisions read as follows:

3052.204–71 Contractor employee access. (MON XXXX)

(a) *Sensitive Information,* as used in this clause, means any information, which if lost, misused, disclosed, or, without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

* * * * *

"Alternate I (MON XXXX)"

* * * * *

(k) * * *

(1) The individual must be a legal permanent resident of the U.S., citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort;

* * * * *

38. Amend subpart 3052.2 by adding 3052.205–XX to read as follows:

3052.205–XX Advertisements, Publicizing Awards, and Releases.

As prescribed in (HSAR) 48 CFR 3005.470–2, insert the following clause:

Advertisements, Publicizing Awards, and Releases

(MON XXXX)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services.

(End of clause)

Alternate I (MON XXXX). If a contract involves sensitive or classified information, designate the paragraph in the base clause as (a) and add the following paragraph (b) to the clause:

(b) All advertisements, releases, announcements, or other publication regarding this contract or the agency programs and projects covered under it, or the results or conclusions made pursuant to performance, must be approved by the Contracting Officer. Under no circumstances shall the Contractor, or anyone acting on behalf of the Contractor, refer to the supplies, services, or equipment furnished pursuant to the provisions of this contract in any publicity, release, or commercial advertising without first obtaining explicit written consent to do so from the Contracting Officer.

(End of clause)

39. Amend subpart 3052.2 by adding section 3052.212–XX to read as follows:

3052.212–XX Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items

As prescribed in (HSAR) 48 CFR 3012.301, insert the following clause:

Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items

(MON XXXX)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference: [The Contracting Officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the list. The Contracting Officer may add the date of the provision or clause if desired for clarity.]

(a) *Provisions.*

_____3052.209–72 Organizational Conflicts of Interest.
_____3052.219–72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.

(b) *Clauses.*

_____3052.203–XX Instructions for Contractor Disclosure of Violations.
_____3052.204–70 Security Requirements for Unclassified Information Technology Resources.
_____3052.205–XX Advertisement, Publicizing Awards, and Releases
_____Alternate I
_____3052.204–71 Contractor Employee Access
_____3052.209–73 Limitation on Future Contracting.
_____3052.215–70 Key Personnel or Facilities.
_____3052.216–70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.
_____3052.216–71 Determination of Award Fee.
_____3052.216–72 Performance Evaluation Plan.
_____3052.216–73 Distribution of Award Fee.
_____3052.217–91 Performance. (USCG)
_____3052.217–92 Inspection and Manner of Doing Work. (USCG)
_____3052.217–93 Subcontracts. (USCG)
_____3052.217–94 Lay Days. (USCG)
_____3052.217–95 Liability and Insurance. (USCG)
_____3052.217–96 Title. (USCG)
_____3052.217–97 Discharge of Liens. (USCG)
_____3052.217–98 Delays. (USCG)
_____3052.217–99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)
_____3052.217–100 Guarantee. (USCG)
_____3052.219–70 Small Business Subcontracting Plan Reporting.
_____3052.219–71 DHS Mentor Protégé Program.
_____3052.228–70 Insurance.
_____3052.228–90 Notification of Miller Act Payment Bond Protection. (USCG)
_____3052.228–91 Loss of or Damage to Leased Aircraft. (USCG)
_____3052.228–92 Fair Market Value of Aircraft. (USCG)
_____3052.228–93 Risk and Indemnities. (USCG)
_____3052.236–70 Special Provisions for Work at Operating Airports.
_____3052.242–70 Contracting Officer's Technical Representative.
_____3052.247–70 F.o.B. Origin Information.
_____Alternate I
_____Alternate II
_____3052.247–71 F.o.B. Origin Only.
_____3052.247–72 F.o.B. Destination Only.

(End of clause)

3052.216–71 [Amended]

40. Remove paragraph (d) of clause 3052.216–71, Determination of Award Fee.

3052.235–70 [Amended]

41. Amend section 3052.235–70 by removing the words "48 CFR 3035.7000" in the introductory paragraph and adding in their place the reference to "48 CFR 3035.70–2."

3052.242–71 [Removed]

42. Remove section 3052.242–71.

3052.245–70 [Removed]

43. Remove section 3052.245–70.

PART 3053—FORMS

44a. Amend section 3053–204–70 by revising paragraphs (a) through (c) to read as follows:

3053.204–70 Administrative matters.

* * * * *

(a) DHS Form 700–1, Cumulative Claim and Reconciliation Statement. (See (HSAR) 48 CFR 3004.804–570(a)(1).)

(b) DHS Form 700–2, Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts. (See (HSAR) 48 CFR 3004.570(a)(2).)

(c) DHS Form 700–3, Contractor Release. (See (HSAR) 48 CFR 3004.804–570(a)(3).)

3053.222–70 [Amended]

44b. Amend section 3053.222–70 by removing "DHS Form 0700–04" in the last line and adding "DHS Form 700–4" in its place.

3053.303 [Amended]

44c. Amend section 3053.303 by removing "DHS Form 0700–01", "DHS Form 0700–02", "DHS Form 0700–03", and "DHS Form 0700–04" from the table in the "Form No." column, and adding in their place, respectively "DHS Form 700–1", "DHS Form 700–2", "DHS Form 700–3", and "DHS Form 700–4"; and by removing the whole entry for "Contractor Report of Government Property/DHS Form 0700–05."

3053.245–70 [Removed and Reserved]

45. Remove and reserve section 3053.245–70.

[FR Doc. 2010–21897 Filed 9–10–10; 8:45 am]

BILLING CODE 9110–9B–P

Notices

Federal Register

Vol. 75, No. 176

Monday, September 13, 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

Forest Service

Crooked Creek Reservoir Repair; White River National Forest, Eagle County, CO

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On May 2, 2008, a Notice of Intent (NOT) to prepare an environmental impact statement (ElS) for the Crooked Creek Reservoir Repair project on the Sopris Ranger District of the White River National Forest was published in the **Federal Register** (86 FR 24215). The Forest Service has decided to cancel the preparation of this EIS. The NOT is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Cary Pence, Forest Engineer, White River National Forest, 900 Grand Avenue, Glenwood Springs, CO 81602, (970) 945–3235.

Dated: September 2, 2010.

Scott G. Fitzwilliams,

Forest Supervisor.

[FR Doc. 2010–22687 Filed 9–10–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Forest Service

Shoshone Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Shoshone Resource Advisory Committee will meet in Thermopolis, Wyoming. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to convene the newly formed committee. The agenda includes dissemination of information on the responsibilities of the committee members and others involved.

DATES: The meeting will be held September 29, 2010, 9 a.m.

ADDRESSES: The meeting will be held at Big Horn Federal Savings, 643 Broadway, Thermopolis, WY. Written comments should be sent to Olga Troxel, Shoshone National Forest, 808 Meadow Lane, Cody, WY 82414. Comments may also be sent via e-mail to *otroxel@fsfed.us,* or via facsimile to 307–578–5112. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Shoshone National Forest, 808 Meadow Lane, Cody, WY 82414. Visitors are encouraged to call ahead to 307–527–6241 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Rick Metzger, Desginated Federal Officer, USDA, Shoshone National Forest, Wind River Ranger District, 1403 W Ramshorn, Dubois, WY 82513; (307) 455–3866; *rmetzger@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Introductions of all committee members, replacement members and Forest Service personnel. (2) Background information on the Secure Rural Schools and Community Self-Determination Act. (3) Development of a draft RAC Charter (4) Selection of a chairperson by the committee members. (5) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: September 2, 2010.

Dad M. Peal,

Acting Forest Supervisor.

[FR Doc. 2010–22693 Filed 9–10–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Rio Grande Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Upper Rio Grande Resource Advisory Committee will meet in South Fork, Colorado. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose is to review and recommend project proposals to be funded with Title II money.

DATES: The meeting will be held on September 28, 2010, and will begin at 10:30 a.m.

ADDRESSES: The meeting will be held at the South Fork Community Building, 0254 Highway 149, South Fork, Colorado. Written comments should be sent to Mike Blakeman, San Luis Valley Public Lands Center, 1803 West U.S. Highway 160, Monte Vista, CO 81144. Comments may also be sent via e-mail to *mblakeman@fs.fed.us,* or via facsimile to 719–852–6250.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the San Luis Valley Public Lands Center, 1803 West U.S. Highway 160, Monte Vista, CO 81144.

FOR FURTHER INFORMATION CONTACT: Mike Blakeman, RAC coordinator, USDA, San Luis Valley Public Lands Center, 1803 West U.S. Highway 160, Monte Vista, CO 81144; 719–852–6212; E-mail *mblakeman@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Introductions of all committee members, replacement members and Forest Service personnel. (2) Develop criteria to evaluate project proposals; (3) Review, evaluate and recommend

project proposals to be funded with Title II money; (4) Create a timeline to receive and review new project proposals and schedule the next meeting; and (5) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: September 2, 2010.

Dan S. Dallas,

Forest Supervisor.

[FR Doc. 2010–22673 Filed 9–10–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY90

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) will hold a three-day Council meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meetings will be held Tuesday, September 28 through Thursday, September 30, 2010. The meeting will begin each day at 8:30 a.m.

ADDRESSES: The meeting will be held at the Hotel Viking, One Bellevue Avenue, Newport, RI 02840; telephone: (401) 847–3300; fax: (401) 848–4864.

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:

Tuesday, September 28, 2010

Following introductions and any announcements, reappointed members will be sworn in for their three-year terms and the Council will hold elections for 2010–11 officers. These events will be followed by a series of brief reports from the Council Chairman and Executive Director, the NOAA Fisheries Regional Administrator (Northeast Region), NOAA General Counsel, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the U.S. Coast Guard, the Atlantic States Marine Fisheries Commission and NOAA Enforcement. During the remainder of the morning session the schedule includes a review of any experimental fishery permit applications received since the last Council meeting and a brief open period for interested parties to comment on issues relevant to Council business but not listed on the meeting agenda. There also will be a presentation on the Mid-Atlantic Fishery Management Council's (MAFMC) recent action on spiny dogfish. Specifically, this will include acceptable biological catch, annual catch limits and accountability measures. The New England Council may take similar action on these measures at this meeting. The remainder of the day will be focused on Atlantic herring. The Council's Herring Committee will present management measures included in a Draft Environmental Impact Statement for Amendment 5 to the Herring Fishery Management Plan (FMP). Final action on the following is scheduled: (1) a catch monitoring program for the herring fishery (including but not limited to reporting requirements, observer coverage, portside sampling, measures to maximize sampling, measures to address net slippage, maximized retention, electronic monitoring); (2) measures to address river herring bycatch, interactions with the Atlantic mackerel fishery and to protect spawning fish; and (3) criteria for midwater trawl access to groundfish closed areas.

Wednesday, September 29, 2010

Northeast Fisheries Science Center staff will report on the June 2010 Stock Assessment Workshop/Stock Assessment Review Committee meetings which addressed the status of pollock, monkfish and sea scallops. This briefing will be followed by a report from the Council's Scientific and Statistical Committee (SSC) Chairman. Issues to be reviewed include the committee's recommendations for updated acceptable biological catches for monkfish, sea scallops and several groundfish stocks (pollock, Gulf of Maine winter flounder, northern and southern windowpane flounder, ocean pout and Georges Bank yellowtail flounder). The Council will then discuss the implication for management of the SSC report on monkfish reference points and acceptable biological catch recommendations, and possibly initiate a framework adjustment. Next, the Council will consider final measures to be included in Amendment 15 to the Atlantic Sea Scallop FMP. If approved these would: (1) include annual catch limits; (2) address excess capacity in the limited access scallop fishery through stacking of permits and/or leasing of scallop effort; and (3) implement several adjustments to make the overall FMP more effective including adjustments to the general category management program and the overfishing definition, modifications to the essential fish habitat (EFH) closed areas, modifications to the research set-aside program and change the start date of the fishing year to May 1. The meeting will close for the day with a report from the Joint Groundfish/Scallop Committee concerning a recommendation to forward advisory panel advice to this committee to individual committees and possibly suspend the joint committee until a future date.

Thursday, September 30, 2010

The last day of the Council meeting will begin with a briefing on Amendment 18 to the South Atlantic Council's (SAFMC) Snapper Grouper FMP.

The SAFMC is amending its FMP for snapper grouper complex species throughout their range to meet the new annual catch limit requirements of the Magnuson-Stevens Act. Based on the landings of some of these species in the New England Council's jurisdiction, the SAFMC is considering extending the management boundaries for all species in the snapper grouper complex northward to include the New England Council's jurisdiction (except black sea bass, golden tilefish, and scup). Following a presentation on the proposed measures, there will be an opportunity for the Council and public to ask questions and/or offer comments. Following this discussion, the Council intends to review and approve final measures to be included in Amendment 3 to Red Crab FMP. The action will implement annual catch limits, accountability measures, quota-based management and other FMP modifications to address Magnuson-Stevens Act requirements, as well as include fishery specifications for 2011–13. A report on the July 2010 Transboundary Resources Assessment Committee (TRAC) meeting will follow and include a review of the status of the transboundary stocks managed through the U.S./Canada Resource Sharing Understanding. These are Eastern Georges Bank cod and haddock and Georges Bank yellowtail flounder. Using information based on the TRAC report, the Transboundary Management Guidance Committee will present its

recommendations for fishing year 2011 total allowable catches of these same stocks. The day will conclude with the Groundfish Committee's Report which will include a recommendation to take initial action on Framework Adjustment 45 to the Northeast Multispecies FMP. Measures under consideration include revising the pollock status determination criteria, changing the acceptable biological catch for pollock, modifying the Georges Bank yellowtail flounder rebuilding strategy, implementing measures to protect spawning cod in the inshore Gulf of Maine, implementing additional sectors, changing monitoring requirements for handgear A and B permitted vessels and changing the general category scallop vessel restrictions in the Great South Channel. Other issues could be considered as a result of the September 3, 2010 Groundfish Committee meeting. The groundfish agenda items will continue until meeting adjournment at the end of the day.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed 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 that 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 (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 7, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–22674 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 100820388–0388–01]

RIN 0648–ZC20

NOAA Regional Ocean Partnership Funding Program—FY2011 Funding Competition

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

ACTION: Notice.

SUMMARY: The purpose of this document is to advise eligible state, local, territory and tribal governments, regional ocean partnerships, institutions of higher learning, and non-profit and for-profit organizations (requirements described in full announcement) that NOAA is soliciting proposals for competitive funding for Regional Ocean Partnerships that include or emphasize regional Coastal and Marine Spatial Planning (CMSP) efforts. This competition is focused on advancing effective coastal and ocean management through regional ocean governance and the goals for national ocean policy set out in the July 2010 *Final Recommendations of the Interagency Ocean Policy Task Force,* which includes a national CMSP Framework. The Regional Ocean Partnership Funding Program (ROPFP) will support two categories of activities:

(1) Implementation of activities that contribute to achieving the priorities identified by Regional Ocean Partnerships (ROPs) while also advancing CMSP as envisioned in the national CMSP Framework; and

(2) ROP Development and Governance Support for administration and operations of existing ROPs, and for start-up costs of those regions beginning ROPs.

Eligible entities must submit to NOAA full proposals on or before December 10, 2010, in order to participate in this Fiscal Year (FY) 2011 funding opportunity. Total anticipated funding is approximately $20,000,000 and is subject to the availability of FY 2011 appropriations. Additional funds of approximately $10,000,000 from NOAA or other Federal agencies may be used for FY 2011 or multi-year awards from this competition. The start date on proposals should be the first day of July, August or September, but no later than October 1, of 2011. Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance).

DATES: Full proposals must be received no later than 11:59 p.m. ET, December 10, 2010. For proposals submitted through Grants.gov, a date and time receipt indication by Grants.gov will be the basis of determining timeliness. Hard copy applications will be date and time-stamped when they are received. Full proposals received after the submission deadline will not be reviewed or considered. Anticipated Announcement of Award: June 1, 2011.

ADDRESSES: Full proposal application packages, including any letters of support, should be submitted through the apply function on Grants.gov. If an applicant does not have Internet access, one set of originals (signed) and two copies of the proposals and related forms should be mailed to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413. No e-mail or fax copies will be accepted.

FOR FURTHER INFORMATION CONTACT: For administrative questions, contact James Lewis Free, NOAA CSC; 2234 South Hobson Avenue, Room B–119; Charleston, South Carolina 29405–2413, phone 843–740–1185, fax 843–740–1224, e-mail *James.L.Free@noaa.gov*. For technical questions regarding this announcement, contact Rebecca Smyth, phone 510–251–8324, e-mail *Rebecca.Smyth@noaa.gov.* To obtain a copy of the *Final Recommendations of the Interagency Ocean Policy Task Force,* please refer to *http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf*.

SUPPLEMENTARY INFORMATION: Announcement of Funding Opportunity also available at *http://www.csc.noaa.gov/funding/.*

Federal Agency Name(s): Coastal Services Center, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

Funding Opportunity Title: NOAA Regional Ocean Partnership Funding Program—FY 2011 Funding Competition.

Announcement Type: Initial Announcement.

Funding Opportunity Number: NOAA–NOS–CSC–2011–2002718.

Catalog of Federal Domestic Assistance Number: 11.473, Coastal Services Center.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Objectives

This Regional Ocean Partnership Funding Program (ROPFP) is focused on

advancing effective coastal and ocean management through regional ocean governance, including the goals for national ocean policy and coastal and marine spatial planning set out in the July 2010 *Final Recommendations of the Interagency Ocean Policy Task Force, http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf.* In the justification for a national CMSP Framework, the Ocean Policy Task Force (OPTF) underscores the need for planning and governance with the following assessment:

The Nation's interests in the ocean, our coasts, and the Great Lakes support a growing number of significant and often competing uses and activities, including commercial, recreational, cultural, energy, scientific, conservation, and homeland and national security activities. Combined, these activities profoundly influence and benefit coastal, regional, and national economies and cultures. However, human uses of our ocean, coasts, and the Great Lakes are expanding at a rate that challenges our ability to plan and manage them under the current sector-by-sector approach. While many existing permitting processes include aspects of cross-sectoral planning (through, for example, the process governed by the National Environmental Policy Act), most focus solely on a limited range of management tools and outcomes (*e.g.,* oil and gas leases, fishery management plans, and marine protected areas). Missing from this picture is a more integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing these uses and activities. This new approach would be national in scope to address national interests, but also scalable and specific to regional and local needs. Without such an improved approach, we risk an increase in user conflicts, continued planning and regulatory inefficiencies with their associated costs and delays, and the potential loss of critical economic, ecosystem, social, and cultural services for present and future generations.

The OPTF, the Pew Oceans Commission, the U.S. Commission on Ocean Policy and the Joint Ocean Commission Initiative have all called for stronger regional ocean governance mechanisms to improve our understanding of ocean and coastal ecosystems, and to address fragmented planning and management of societal uses of coastal and ocean lands and waters. The value in this approach is reflected in the rapid engagement by most coastal states in new Regional Ocean Partnerships (ROP). These partnerships have been established to facilitate the effective management of ocean and coastal resources across jurisdictional boundaries by improving communications, aligning priorities, and enhancing resource-sharing between local, State, tribal and Federal agencies.

Coastal and Marine Spatial Planning (CMSP) is an important planning tool for regional ocean governance. CMSP is a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of ocean, coastal, and Great Lakes areas. Intended to look across multiple sectors and jurisdictions in an objective and collaborative regional fashion, CMSP identifies areas most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet societal objectives, including economic, environmental and security considerations. In practical terms, CMSP provides a public policy process for society to better determine how the ocean, coasts, and Great Lakes are sustainably used and protected for future generations. As noted in the OPTF's Final Recommendations, potential opportunities and incentives for regions undertaking CMSP include:

(1) Encouraging and informing the Federal government to better manage resources or address processes that transcend jurisdictional boundaries;

(2) Defining local and regional objectives and developing and implementing CMSP in a way that is meaningful to regionally specific concerns;

(3) Leveraging, strengthening, and magnifying local planning objectives through integration with regional and national planning efforts;

(4) Proactively addressing concerns over proposed activities impacting State and tribal interests and minimizing use conflicts before they escalate;

(5) Leveraging support from the Federal government to build CMSP capacity, access CMSP data; and acquire scientific, technical, and financial assistance;

(6) Accessing data through CMSP Portal(s) and utilizing science tools developed, established, and maintained for CMSP efforts;

(7) Benefiting from sustained Federal participation on the regional planning bodies that consist of representatives empowered to make decisions and commitments on behalf of their respective agencies, in turn helping to integrate and improve decision-making;

(8) Providing a clearer and easier point of access for all Federal agencies with regard to ocean, coastal, and Great Lakes issues; and

(9) Achieving regulatory efficiencies, reduction in administrative delays, and cost savings.

The OPTF's CMSP Framework generally identifies large marine ecosystems (LME) as the basis for defining CMSP regions. LMEs are defined on the basis of consistent ecological conditions and other factors. For CMSP purposes, the United States is subdivided into nine regional planning areas based on LMEs with modifications as necessary to ensure inclusion of the entire U.S. EEZ and Continental Shelf, and to allow for incorporation of existing state or regional ocean governance bodies. For the most part, the boundaries of regional governance structures for the Northeast, Mid-Atlantic, South Atlantic, Gulf Coast, West Coast, and Great Lakes lie within LME boundaries. The OPTF also designates Alaska, Hawaii and the U.S. Pacific Islands, and the U.S. Caribbean as regions, resulting in a total of nine regions. For purposes of this funding opportunity, *NOAA will generally use the OPTF-defined regions for consideration in ROPFP funding proposals.* Where possible, NOAA has identified an existing lead ROP or planning body for each region (*see* Section III.C.). Regional Ocean Partnerships are defined as below:

Regional Ocean Partnerships are voluntary, usually multi-state, Governor-established forums that develop shared priorities and take critical action on a broad diversity of ocean, coastal and Great Lakes needs, as relevant to their region. They have different structures and employ varied methods and approaches to enhance the ecological and economic health of the region. Their efforts involve non-governmental stakeholders and all of the multiple state and Federal agencies involved in coastal and ocean management.

For the purposes of this announcement, all applicants must coordinate their proposals for a region with the identified lead ROP or planning body of that region. The goal of this coordination is to ensure awareness, enhance collaboration, and contribute to achieving the best outcomes for regional ocean governance and healthy, resilient and sustainable oceans, coasts and Great Lakes resources.

The ROPFP is intended to support development or implementation of regional ocean governance priorities that also advance the objectives detailed in the OPTF's national CMSP Framework. Regional priorities may be identified in existing ROP plans (*e.g.,* Gulf of Mexico Alliance, Northeast Regional Ocean Council, Mid-Atlantic Regional Council on the Ocean, the South Atlantic Alliance, the Great Lakes

Council of Governors and the West Coast Governors' Agreement on Ocean Health), or emerge through developing ROP efforts. The ROPFP is also intended to support regional ocean governance efforts with funds for administration and operations of existing ROPs, and for development costs of those regions beginning ROPs (including Alaska, Hawaii and the U.S. Pacific Islands, and the U.S. Caribbean).

The ROPFP program will support two categories of activities:

(1) Focus Area 1—Implementation of activities that meet both regional ocean governance priorities identified by ROPs in action plans and other public documents and the purposes and priorities of the national CMSP Framework; and

(2) Focus Area 2 (up to approximately $3M)—Development and governance support for administration and operations of existing and new ROPs, including development of plans and management of ROP activities.

This funding opportunity supports the Department of Commerce's objectives to "Support coastal communities that are environmentally and economically sustainable," and "Support climate adaptation and mitigation." It also directly contributes to the NOAA strategic goal for Resilient Coasts and Economies, and the objectives therein, including "Comprehensive Ocean and Coastal Planning and Management" and "Resilient Coastal Communities That Can Adapt to Impacts of Hazards and Climate Change."

B. Program Priorities

Focus Area 1

Focus Area 1 funds are intended to support a spectrum of regional ocean governance priorities including those that address national goals for CMSP. CMSP is an important planning tool for supporting a number of regional ocean governance efforts; therefore Focus Area 1 proposals that also advance comprehensive CMSP, either through regional planning processes or through building capacity by addressing relevant CMSP principles will be given highest priority in the final evaluation. The OPTF's CMSP Framework identifies twelve Guiding Principles:

(1) CMSP would use an ecosystem-based management approach that addresses cumulative effects to ensure the protection, integrity, maintenance, resilience, and restoration of ocean, coastal, and Great Lakes ecosystems, while promoting multiple sustainable uses.

(2) Multiple existing uses (*e.g.,* commercial fishing, recreational fishing and boating, marine transportation, sand and gravel mining, and oil and gas operations) and emerging uses (*e.g.,* off-shore renewable energy and aquaculture) would be managed in a manner that reduces conflict, enhances compatibility among uses and with sustained ecosystem functions and services, provides for public access, and increases certainty and predictability for economic investments.

(3) CMSP development and implementation would ensure frequent and transparent broad-based, inclusive engagement of partners, the public, and stakeholders, including with those most impacted (or potentially impacted) by the planning process and with underserved communities.

(4) CMSP would take into account and build upon the existing marine spatial planning efforts at the regional, State, tribal, and local level.

(5) CMS Plans and the standards and methods used to evaluate alternatives, tradeoffs, cumulative effects, and sustainable uses in the planning process would be based on clearly stated objectives.

(6) Development, implementation, and evaluation of CMS Plans would be informed by sound science and the best available information, including the natural and social sciences, and relevant local and traditional knowledge.

(7) CMSP would be guided by the precautionary approach as defined in Principle 15 of the Rio Declaration, which states that, "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

(8) CMSP would be adaptive and flexible to accommodate changing environmental conditions and impacts, including those associated with global climate change, sea-level rise, and ocean acidification; and new and emerging uses, advances in science and technology, and policy changes.

(9) CMSP objectives and progress toward those objectives would be evaluated in a regular and systematic manner, with public input, and adapted to ensure that the desired environmental, economic, and societal outcomes are achieved.

(10) The development of CMS Plans would be coordinated and compatible with homeland and national security interests, energy needs, foreign policy interests, emergency response and preparedness plans and frameworks, and other national strategies, including the flexibility to meet current and future needs.

(11) CMS Plans would be implemented in accordance with customary international law, including as reflected in the 1982 Law of the Sea Convention, and with treaties and other international agreements to which the United States is a party.

(12) CMS Plans would be implemented in accordance with applicable Federal and State laws, regulations, and Executive Orders.

In addition, proposals that also address the national Areas of Special Emphasis as identified in the OPTF July 2010 final report will receive some priority in the evaluation. The Areas of Special Emphasis are:

(1) *Resiliency and Adaptation to Climate Change and Ocean Acidification:* Strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification.

(2) *Regional Ecosystem Protection and Restoration:* Establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels.

(3) *Water Quality and Sustainable Practices on Land:* Enhance water quality in the ocean, along our coasts, and in the Great Lakes by promoting and implementing sustainable practices on land.

And where applicable:

(4) *Changing Conditions in the Arctic:* Address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes, and

(5) *Ocean, Coastal, and Great Lakes Observations, Mapping and Infrastructure:* Strengthen and integrate Federal and non-Federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system and integrate that system into international observation efforts.

Therefore, proposals for ROPFP funds might articulate (but are not limited to) how a region would move forward on planning consistent with the OPTF's CMSP Framework; or implement key priority actions of the existing ROPs that would apply CMSP Guiding Principles to an Area of Special Emphasis; or provide tools and information identified as an ROP priority that are also critical for regional CMSP. Some examples of how an applicant might propose to advance an ROP's capacity to conduct comprehensive regional CMSP across

multiple sectors and jurisdictions include:

(1) The synthesis of relevant spatial data on ecosystem structure, function, services and human uses on a regional scale;

(2) The development or application of decision-support tools to help planners and stakeholders assess the implications of alternative ocean use scenarios throughout the region; or

(3) The identification of regional goals and objectives for appropriate uses of ocean and coastal areas.

In addition, the creation of new and innovative partnerships and broader stakeholder engagement beyond the existing governmental relationships of the ROPs will be needed for successful planning and implementation of CMSP. This element needs to be included in projects that will be considered for CMSP efforts.

The CMSP process consists of a series of steps that would eventually lead to the development of a comprehensive, multi-sectoral, and multi-objective CMS Plan. Although the CMSP process envisions optimum flexibility among and within regions, the following essential elements—and how the partners plan to accomplish them—would need to occur in all regions in order to ensure a level of national consistency. The process would be adaptive and refined as regions gain experience with CMSP. In determining whether ROP proposals are using a CMSP approach, applicants should indicate how they are addressing the CMSP Guiding Principles as well as how the proposed approach aligns with the Essential Elements of the CMSP process (also noted in the OPTF's CMSP Framework):

(1) Identify Regional Objectives.

(2) Identify Existing Efforts that Should Help Shape the Plan Throughout the Process.

(3) Engage Stakeholders and the Public at Key Points throughout Process.

(4) Consult Scientists and Technical and Other Experts.

(5) Analyze Data, Uses, Services, and Impacts.

(6) Develop and Evaluate Alternative Future Spatial Management Scenarios and Tradeoffs.

(7) Prepare and Release for Public Comment a Draft CMS Plan With Supporting Environmental Impact Analysis Documentation.

(8) Create a Final CMS Plan and Submit for National Ocean Council (NOC) Review.

(9) Implement, Monitor, Evaluate, and Modify (as needed) the NOC-Certified CMS Plan.

Development and implementation of CMS Plans would be an iterative process leading to a comprehensive, multi-objective, multi-sectoral plan within the first five years. Since each region may have different drivers and capabilities for CMSP, regions may choose to prioritize initial development and implementation steps. While CMSP should help resolve many use conflicts, it is not realistic to expect that all such conflicts would be resolved. Further, partners might agree not to resolve certain issues in a CMS Plan at a particular time, but rather to acknowledge these issues and indicate how the parties would continue to work on them as part of the iterative CMSP process. Such issues may be resolved as data gaps are filled, new information is developed, or as State or Federal legal authorities are enacted, changed, or updated.

For example, offshore energy is an ROP priority that could also address CMSP Guiding Principles. ROPs will need to develop a solid spatial framework and socioeconomic measures to understand the trade-offs and make sound decisions on siting offshore energy facilities—the planning approach, decision support tools and information used in planning for offshore energy siting are also needed for developing an effective regional CMSP. Data collection and data synthesis can also illustrate the intersection between CMSP and many ROP priorities. For example, the collection of seafloor mapping data and relevant products from that data could support siting decisions about waterborne commerce, recreational use of the area, or protection of key resources. These data, fundamental to our understanding of our ocean resources and where activities can occur, are also fundamental to comprehensive CMSP tools.

Focus Area 1 proposals that effectively articulate the connection between the proposed project, CMSP Guiding Principles and Essential Elements and the Areas of Special Emphasis, and the priorities publicly identified by the relevant ROP will receive the highest rankings based upon NOAA's criteria (*see* Section V.A.).

Focus Area 2

The intent of Focus Area 2, ROP Development and Governance Support, is to help support administration and operations for existing ROPs, and support development for regions that are initiating ROP activities.

Proposals might seek funding for any aspects of these elements in support of ROP development and impact. Some examples include: Funding for ROP staff support to coordinate and facilitate stakeholder engagement; holding stakeholder engagement meetings; identifying, developing and/or managing implementation of priority activities in the region; establishing a non-profit organization under 26 U.S.C. 501(c)(3) or other fiduciary entity to represent the ROP or entering into a partnership with an existing non-profit organization established under section 501(c)(3) to act as fiduciary; developing annual reports and other outreach materials to demonstrate the importance of broad support for regional ocean governance. ROP participation should be voluntary, emphasize collaborative management, and involve all states in the region.

C. Program Authority

Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance).

II. Award Information

A. Funding Availability

Total anticipated funding for all ROPFP awards is approximately $20,000,000 and is subject to the availability of FY 2011 appropriations. Additional funds of approximately $10,000,000 from NOAA or other Federal agencies may be used for FY 2011 or multi-year awards from this competition. Multiple awards are anticipated from this announcement. The anticipated Federal funding per Focus Area 1 award (min-max) is approximately $1,000,000 to $3,500,000. The anticipated Federal funding per Focus Area 2 award (min-max) is approximately $100,000 to $500,000.

The anticipated number of awards ranges from twelve (12) to thirty (30), and will be adjusted based on available funding. Applicants must be aware that funds have not yet been appropriated for this program. If additional funding is made available in FY 2011 through Congress for ROPFP, NOAA may select additional FY 2011 proposals for funding rather than open a new competition, or augment FY 2011 awards that were only partially funded.

There is no limit on the number of proposals from each region. Applicants may bundle multiple projects into one proposal, or may submit single projects; however, NOAA will evaluate all projects for readiness and feasibility for completion within the required 2 year time frame. Applicants must note the requirement detailed in Section III.C. for demonstration of coordination with the relevant ROP on projects.

There is no guarantee that funds will be available to make awards for this Federal funding opportunity or that any proposal will be selected for funding. If an applicant incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, they do so at their own risk of these costs not being included in a subsequent award. In no event will NOAA or the Department of Commerce be responsible for any proposal preparation costs. In addition, NOAA and DOC will not be responsible for proposal or project costs if this program fails to receive funding. Recipients and sub-recipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards. Applicants must be in good standing with all existing NOAA grants and/or cooperative funding agreements in order to receive funds.

B. Project/Award Period

Focus Area 1 is for multiple year awards with project periods up to 24 months. Multiple year awards receive all funding in the first year, but the performance period can be two years. Competitive announcements for this purpose may be published in future years, and if so, applicants may resubmit proposals or submit new proposals for funding in future years.

Focus Area 2 is for multi-year awards. Multi-year awards are partially funded when the awards are approved, but may receive subsequent increments of funding. Proposed projects may request funding for one to three years and once awarded, those awards will not compete for funding in subsequent years.

Proposals in Focus Area 1 or 2 not funded in the current fiscal period may be considered for funding in another fiscal period without NOAA repeating the competitive process outlined in this announcement.

C. Type of Funding Instrument

Applications should be written as cooperative agreements and the proposal should clearly identify this funding instrument in the proposal abstract and cover sheet. Applicants should clearly articulate the Federal roles and responsibilities in implementing the proposal. Examples of Federal involvement include Federal co-leadership of the ROPs, Federal leadership on priority task teams, and staff support to working groups and leadership teams.

III. Eligibility Information

A. Eligible Applicants

All state, local, territory and tribal governments, institutions of higher learning, non-profit and for-profit organizations that may receive and expend Federal funds as legal entities are eligible to apply. As defined at 15 CFR 24.3, local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Please note the requirement detailed in Section III.C. for demonstration of coordination with the relevant ROP on projects and funding amounts proposed.

Federal agencies and employees are not allowed to receive funds under this announcement but may serve as collaborative project partners. If Federal agencies are collaborators, applicants should provide detail on the level of Federal engagement in the application. Examples might include, but are not limited to, providing additional funding, in-kind services, or serving in a review capacity.

The lead applicant on any proposal will be responsible for ensuring that allocated funds are used for the purposes of, and in a manner consistent with, this program, including any funds awarded to an eligible sub-awardee.

B. Cost Sharing or Matching Requirement

There is no requirement for cost sharing.

C. Other Criteria That Affect Eligibility

In order to be eligible to compete, a project or applicant must meet one or more of the

following criteria, as applicable to the proposed project and Focus Area:

(1) Represent or directly partner with a member of an existing regional ocean governance partnership;

(2) Possess the authority, proven capacity, and regional relationships to effectively coordinate the development of a regional ocean governance priorities that engages affected coastal states and territories and their management agencies, including the approved coastal zone management program;

(3) Demonstrate formal commitments with existing regional ocean governance partnerships and coastal states or territories (including the approved coastal zone management program) to adopt the plan(s), product(s) or outcome(s) of a proposed project into regional or state ocean management planning processes or coastal and ocean resource management policies.

Where applicable, each proposal must directly involve or include a letter of support or endorsement from the lead ROP for each region (identified below) for the purposes of this funding opportunity. The letter should confirm that the proposed project has been evaluated for its contributions to regional ROG priorities, and specifically indicate concurrence with recommended approach and proposal funding amounts.

The existing lead ROPs identified for each region for the purposes of the ROPFP are:

(1) Northeast Regional Ocean Council.

(2) Mid-Atlantic Regional Council on the Ocean.

(3) South Atlantic Governors' Alliance.

(4) Gulf of Mexico Alliance.

(5) West Coast Governors' Agreement on Ocean Health.

(6) Council of Great Lakes Governors.

During FY 2011, applicants for Alaska, Hawaii, Pacific Island Commonwealths and Territories, and the Caribbean will be allowed to compete for Focus Area 1 funds by demonstrating that they are working towards a regional ocean partnership in their respective regional planning areas as identified above. This can be accomplished by providing letters of support for each proposal from their respective Office of the Governor and lead State and Federal agencies as well as tribes involved in coastal and ocean management. Part of this application must outline steps towards creating a ROP. Applicants from these regions where no ROP currently exists are strongly encouraged to also submit proposals for Focus Area 2 funds in order to develop ROP capacity for regional ocean governance and CMSP objectives. These regions will be eligible for Focus Area 1 funding in FY 2012 and beyond once they establish the partnerships needed for comprehensive ocean governance.

Allowable uses for funds:

Direct and indirect costs for administering the ROPFP award are allowable and must be incurred within the award period. Note that administrative costs may be included, but the total amount allocated for costs of this nature should be minimized to the greatest extent possible. Direct and indirect costs may include time spent by staff for project planning,

implementation, and review. If an application includes indirect costs, the amount must be based on the indirect cost rate negotiated and approved by the applicant's cognizant Federal agency. The total amount allocated for indirect costs may not exceed the value of 20 percent of the Federal share, *e.g.,* a proposal requesting $250,000 in Federal funds may include a maximum of $50,000 for indirect costs in the budget. Applicants requesting indirect costs will be required to submit a copy of their indirect cost rate agreement.

IV. Application and Submission Information

A. Address To Request Application Package

Application packages for full proposals are available through the apply function on Grants.gov. If an applicant does not have Internet access, application packages can be requested from James Lewis Free at 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413; 843–740–1185; or *James.L.Free@noaa.gov.*

B. Content and Form of Application Submission

(1) Focus Area 1 Proposals:

Full proposal applications must be 15 pages or less (single-spaced, 11 or 12-point font and exclusive of appendices). The 15-page limit does not include the proposal title page, a table of contents (if included), the project summary (referenced below), and any appendices. Appendices should be limited to materials that directly support the main body of the proposal (*e.g.,* detailed budget information, support letters, resumes, references, lists of data sources, maps, and/or required Federal forms as noted above in Section IV.B.1). Applicants should number the pages in the proposal and any appendices. Appendices may be paginated as stand-alone documents (individually) or as part of the larger document. Proposals failing to comply with the format prescribed in this section will be deemed incomplete and will not be considered for further review.

Required Elements

All funding application packages must contain the following components:

(1) Title Page (Proposal Cover Sheet). Include proposal title, complete contact information for the Principal Investigator and Financial Representative, duration of proposed project, funding type (cooperative agreement), and amount of funding request.

(2) Project Summary. Provide a one to two-page summary of the proposed project. The summary should be written for easy understanding by a broad audience and contain the following sections:

i. Project Name/Title.

ii. Primary Contact (name, address, phone, fax, e-mail).

iii. Recipient Organization or Institution (If the project is intended to be administered under an existing NOAA Cooperative Institute, please state which Institute will administer the award).

iv. Other Investigators (name, affiliated organization, institution or agency).

v. Brief Project Summary (whether for Focus Area 1 or Focus Area 2, or both) including objectives, ties to ROP priorities and applicable CMSP approaches, and intended benefits.

vi. Partners.

vii. Proposed funding for each year of the project. If the proposal includes funding to NOAA to provide technical assistance on the project, make sure to note the amounts by year and line office that is the intended recipient of the funds.

(3) Project Description. All project descriptions (proposals) must include the following sections:

i. *Goal and Objective(s).* Describe in the narrative the specific project goals and objectives to be achieved. In particular, note the connection to regional ocean governance, including ROP priorities and, where applicable, how CMSP can be applied to address those priorities, and expected outcomes. Recipients will be required to submit semi-annual reports describing progress toward these goals and objectives. Provide a description of measures of success that will be used to evaluate progress and success in achieving the goals and objectives of the project.

ii. *Background.* Provide sufficient background information for NOAA and non-NOAA reviewers to independently assess the significance of the proposed project for advancing regional coastal and ocean planning and management priorities. Summarize the problem to be addressed, identified needs and the status of ongoing efforts to address them. Summarize the relationship of the proposed work to other ongoing or planned regional ocean governance efforts.

iii. *Partnerships:* Provide information on the range of partners, including local, State, tribal, and Federal government as well as non-governmental organizations, academia, and industry. Include the roles and support each key partner is providing and how the ROP will include and grow partnerships as appropriate to achieve the goals of both the ROP and as appropriate, CMSP.

iv. *Audience.* Identify specific users of the results of the project, describe how they will use the results, and identify any training that will be needed for users to make full use of the results.

v. *Approach.* Provide a work plan that: identifies specific tasks to be accomplished; explains the technical approach (including quality assurance) needed to accomplish the tasks; identifies the roles of partners and cooperators; and identifies potential obstacles to successful completion of the goals and objectives. Describe how users are involved in the planning and design process. The work plan must clearly address data management requirements, and the steps to be taken to achieve efficient and effective data access and archiving that is compliant with Federal regulations. Identify methods that will be used to ensure that the project will be coordinated to achieve active and meaningful participation by all partners and appropriate stakeholders in the region. Clearly identify the roles and responsibilities of the Federal partners.

vi. *Benefits.* Identify, with a high degree of specificity, the uses of the information derived from the work, and the benefits that will be achieved from those uses, or by particular users of the information, as well as society as a whole. Document how valid user requirements are guiding the proposed work. Describe how the information from the project will be delivered to those users, and any special considerations or requirements for ensuring or improving the delivery of information.

vii. *Milestone Schedule.* Display time lines for major tasks, target milestones for important intermediate and final products, and key project outcomes.

viii. *Project Budget.* Provide a budget description that follows the categories and formats in the NOAA grants package (Standard Form 424–A) and a brief narrative justification of the budget. Detailed budget information, such as a repeat of the information in Form SF–424A along with more details should be included in an appendix. In this appendix, the budget narrative also shall clearly identify the cost of separable elements of the proposed work and shall identify the elements of the project that the cooperator would recommend for revision or elimination if sufficient funding is not available for all proposed activities. Applicants must itemize and describe the intended use of equipment costing $5,000 or greater that will be purchased under the award. Applicants must complete a lease versus purchase analysis for any equipment $5,000 or greater. For proposals to carry out basic or applied scientific research, non-profit institutions of higher education or non-profit organizations

whose primary purpose is conducting scientific research should identify, if possible, who will be requested to retain ownership of any equipment purchased through grant funds after the project ends. The budget narrative must also provide, to the extent possible, detailed information on travel, including costs, a description of anticipated travel, destinations, the number of travelers, and a justification of how the requested travel is directly relevant to the successful completion of the project. If actual trip details are unknown, applicants must state the basis for the proposed travel charges. Applicants should allocate travel funds for any coordination meetings at regional or national levels. Foreign travel must receive prior approval, and therefore, should be included in the proposal to avoid having to request prior approval after the project starts. Applicants may factor in travel costs for participation in a NOAA Grants Management Division workshop for recipients, as well as for meeting with NOAA staff and/or key project personnel.

(4) Appendices

i. Mandatory Detailed Budget Information, including budgets of subawards and contracts. Information should include the name of the entity receiving funds, the location of the entity receiving the funds (for example, city, state, and Congressional district), and the location of the primary place of performance under the contract/subaward.

ii. Resumes. Provide resumes of the Principal Investigator for the project and other key personnel critical to the success of the project. Ensure that resumes address qualifications relevant to conducting the proposed work. Please limit resumes to a maximum of two pages for each key investigator.

iii. National Environmental Policy Act (NEPA)—Under the National Environmental Policy Act (NEPA), NOAA must analyze the potential environmental impacts of projects or proposals seeking funding from NOAA. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/*including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf* and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.*

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (for example, the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems).

After the application is submitted, NOAA may require additional information to fulfill NEPA requirements. If NOAA determines that an environmental assessment is required, applicants may also be requested to assist in drafting the assessment. Applicants may also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Applicants are required to answer the questions indicated in this Announcement of Federal Funding Opportunity. Applicants should answer the NEPA questions to the best of their ability with as much detail as possible. If the applicant does not answer all the questions indicated in the Announcement of Federal Funding Opportunity the application may be considered incomplete.

Some of the questions may overlap with material provided in other parts of the application. This overlap occurs because the answers to the questionnaire are provided to NOAA staff members who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire. Many questions have a "yes" or "no" response. If the response is "no" the applicant does not need to elaborate on their answer. If the response is "yes" the question will have a second part asking the applicant to provide more information.

Applicant NEPA questions are as follows:

Question C1. Is the proposed activity going to be conducted in partnership with NOAA or would the proposed activity require NOAA's direct involvement, activity, or oversight? If yes, describe NOAA's involvement, activity, or oversight, including the name of the office or program that is involved.

Question C2. Would the proposed activity involve any other Federal agency(ies) partnership, direct involvement, activity, or oversight? If yes, provide the name(s) of the agency(ies) and describe its involvement, activity, or oversight.

Question D1. Provide a brief description of the location of the proposed activity.

Question E1. List any Federal, State, or local permits, authorizations, or waivers that would be required to complete the proposed activity. Provide the date the permit, authorization, or waiver was obtained or will be obtained. Provide copies of the permit, authorization, or waiver as appropriate. Was a NEPA analysis prepared for the permit, authorization, or waiver? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.

Question F1. Is there the potential for the proposed activity to cause changes that would be different from normal ambient conditions (for example, temperature, light, turbidity, noise, other human activity levels, etc.)? If yes, describe the changes and the circumstances that would cause these changes.

Paperwork Reduction Act Statement

This documents contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046. The application requirements specific to the NOAA Regional Ocean Partnership Funding Program have been approved by the Office of Management and Budget under Control Number 0648–0538. Public reporting burden for this collection of information is estimated to average 3 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 of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Ms. Cristi Reid, NOAA Office of Program Planning and Integration, SSMC 3, Room 15700, 1315 East West Highway, Silver Spring, MD 20910. The information collection does not request any proprietary or confidential information. No confidentiality is provided.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

(2) Focus Area 2 Proposals

Full proposal applications must be 5 pages or less (single-spaced, 11 or 12-point font and exclusive of appendices). The 5-page limit does not include the proposal title page, a table of contents (if one is included), the project summary referenced below and any appendices. Appendices should be limited to budget, resumes and support letters. Applicants should number the pages of the proposal and any appendices. Appendices may be paginated as stand-alone documents (individually) or as part of the larger document. Proposals failing to comply with the format prescribed in this section will be deemed incomplete and will not be considered for further review.

Required Elements

All funding application packages must contain the following components:

(a) Title Page (Proposal Cover Sheet). Include proposal title, complete contact information for the Principal Investigator and Financial Representative, duration of proposed project, funding type (cooperative agreement), and amount of funding request.

(b) Project Summary. Provide a one-page summary of the proposed project.

The summary should be prepared to be readable to a broad audience and contain the following sections:

i. Project Name/Title.

ii. Primary Contact (name, address, phone, fax, e-mail).

iii. Recipient Organization or Institution.

iv. Other Investigators (name, affiliated organization, institution or agency).

v. Brief Project Summary including objectives, ties to ROP Development and Governance, and intended benefits.

vi. Partners.

vii. Proposed funding for each year of the project. If the proposal includes funding to NOAA to provide technical assistance on the project, make sure to note the amounts by year and line office that is the intended recipient of the funds.

viii. If the project is intended to be administered under an existing NOAA Cooperative Institute, state which Institute will administer the award.

(a) Project Description. All project descriptions (proposals) must include the following sections:

i. *Goal and Objective(s).* Describe in the narrative the specific project goals and objectives to be achieved. In particular note the connection to ROP Development and Governance. Objectives should be specific for each year of the work plan presented. Recipients will be required to submit semi-annual progress reports in which progress against these goals and objectives will be reported.

ii. *Background.* Provide sufficient background information for NOAA and non-NOAA reviewers to independently assess the significance of the proposed project. Summarize the problem to be addressed and the status of ongoing efforts to address the identified needs. Summarize the relationship of the proposed work to other ongoing or planned regional ocean governance efforts.

iii. *Partnerships:* Provide information on how the project will build the partnerships, especially cross governmental on all state, tribal and Federal agencies with interest in coastal and ocean management as well as partnership building with industry, nongovernmental organizations, and academia.

iv. *Audience.* Identify specific users of the results of the project, describe how they will use the results, and identify any training that will be needed for users to make full use of the results.

v. *Approach.* Provide a work plan that: identifies specific tasks to be accomplished; explains the technical approach (including quality assurance) needed to accomplish the tasks; identifies the roles of partners and cooperators; and identifies potential obstacles to successful completion of the goals and objectives. Describe how users are involved in the planning and design process. The work plan must clearly address data management requirements, and the steps to be taken to achieve efficient and effective data access and archiving that is compliant with Federal regulations. Clearly identify the roles and responsibilities of the Federal.

vi. *Benefits.* Identify, with a high degree of specificity, the uses of the information derived from the work, and the benefits that will be achieved from those uses, or by particular users of the information, as well as society as a whole. Document how valid user requirements are guiding the proposed work. Describe how the information from the project will be delivered to those users, and any special considerations or requirements for ensuring or improving the delivery of information.

vii. *Milestone Schedule.* Display time lines for major tasks, target milestones for important intermediate and final products, and key project outcomes.

viii. *Project Budget.* Provide a budget description that follows the categories and formats in the NOAA grants package (Standard Form 424–A) and a brief narrative justification of the budget.

ix. Detailed budget information, such as a repeat of the information in Form SF–424A along with more details should be included in an appendix. In this appendix, the budget narrative also shall clearly identify the cost of separable elements of the proposed work and shall identify the elements of the project that the cooperator would recommend for revision or elimination if sufficient funding is not available for all proposed activities.

x. Applicants must itemize and describe the intended use of equipment costing $5,000 or greater that will be purchased under the award. Applicants must complete a lease versus purchase analysis for any equipment $5,000 or greater. For proposals to carry out basic or applied scientific research, non-profit institutions of higher education or non-profit organizations whose primary purpose is conducting scientific research should identify, if possible, who will be requested to retain ownership of any equipment purchased through grant funds after the project ends. The decision on grant ownership requests will be made by the Grants Officer before or during the grant close out process.

xi. The budget narrative must also provide, to the extent possible, detailed information on travel, including costs, a description of anticipated travel, destinations, the number of travelers, and a justification of how the requested travel is directly relevant to the successful completion of the project. If actual trip details are unknown, applicants must state the basis for the proposed travel charges. Applicants should allocate travel funds for any coordination meetings at regional or national levels. Foreign travel must receive prior approval, and therefore, should be included in the proposal to avoid having to request prior approval after the project starts. Applicants may factor in travel costs for participation in annual NOAA Grants Management Division workshops for recipients, as well as for meeting with NOAA staff and/or key project personnel.

(3) Appendices

(a) Mandatory Detailed Budget Information, including budgets of subawards and contracts. Information should include the name of the entity receiving funds, the location of the entity receiving the funds (for example, city, State, and Congressional district), the location of the entity receiving funds (city, State, and Congressional district), and the location of the primary place of performance under the contract/subaward.

(b) Resumes. Provide resumes of the Principal Investigator for the project and other key personnel critical to the success of the project. Ensure that

resumes address qualifications relevant to conducting the proposed work. Please limit resumes to a maximum of two pages for each key investigator.

(c) National Environmental Policy Act (NEPA)—Under the National Environmental Policy Act (NEPA), NOAA must analyze the potential environmental impacts of projects or proposals seeking funding from NOAA. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/*including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_—6_—TOC.pdf* and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm*.

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (for example, the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems).

After the application is submitted, NOAA may require additional information to fulfill NEPA requirements. If NOAA determines that an environmental assessment is required, applicants may also be requested to assist in drafting the assessment. Applicants may also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Applicants are required to answer the questions indicated in this Announcement of Federal Funding Opportunity. Applicants should answer the NEPA questions to the best of their ability with as much detail as possible. If the applicant does not answer all the questions indicated in the Announcement of Federal Funding Opportunity the application may be considered incomplete.

Some of the questions may overlap with material provided in other parts of the application. This overlap occurs because the answers to the questionnaire are provided to NOAA staff members who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire. Many questions have a "yes" or "no" response. If the response is "no" the applicant does not need to elaborate on their answer. If the response is "yes" the question will have a second part asking the applicant to provide more information.

Applicant NEPA questions are as follows:

Question C1. Is the proposed activity going to be conducted in partnership with NOAA or would the proposed activity require NOAA's direct involvement, activity, or oversight? If yes, describe NOAA's involvement, activity, or oversight, including the name of the office or program that is involved.

Question C2. Would the proposed activity involve any other Federal agency(ies) partnership, direct involvement, activity, or oversight? If yes, provide the name(s) of the agency(ies) and describe its involvement, activity, or oversight.

Question D1. Provide a brief description of the location of the proposed activity.

Question E1. List any Federal, state, or local permits, authorizations, or waivers that would be required to complete the proposed activity. Provide the date the permit, authorization, or waiver was obtained or will be obtained. Provide copies of the permit, authorization, or waiver as appropriate. Was a NEPA analysis prepared for the permit, authorization, or waiver? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.

Question F1. Is there the potential for the proposed activity to cause changes that would be different from normal ambient conditions (for example, temperature, light, turbidity, noise, other human activity levels, etc.)? If yes, describe the changes and the circumstances that would cause these changes.

Paperwork Reduction Act Statement

This documents contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046. The application requirements specific to the NOAA Regional Ocean Partnership Funding Program have been approved by the Office of Management and Budget under Control Number 0648–0538. Public reporting burden for this collection of information is estimated to average 3 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 of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Ms. Cristi Reid, NOAA Office of Program Planning and Integration, SSMC 3, Room 15700, 1315 East West Highway, Silver Spring, MD 20910. The information collection does not request any proprietary or confidential information. No confidentiality is provided.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

C. Intergovernmental Review

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs" for states that participate in this process. It is the state agency's responsibility to contact their state's Single Point of Contact (SPOC) to find out about and comply with the state's process under EO 12372. A list of the participating states and the clearinghouse points of contact can be found at *http://www.whitehouse.gov/omb/grants_spoc.*

D. Funding Restrictions

None.

E. Other Submission Requirements

(1) Letter of Endorsement—As detailed in Section III.C., where applicable, each proposal must include a letter of support or endorsement from the lead ROP identified for each region for the purposes of this funding opportunity.

(2) Full proposal application packages, including any letters of support, should be submitted through the apply function on Grants.gov. The standard NOAA funding application package is available at www.grants.gov. Please be advised that potential funding applicants must register with Grants.gov before any application materials can be submitted. An organization's one time registration process may take up to three weeks to complete so please allow sufficient time to ensure applications are submitted before the closing date. The Grants.gov site contains directions for submitting an application, the

application package (forms), and is also where the completed application is submitted.

(3) If an applicant does not have Internet access, one set of originals (signed) and two copies of the proposals and related forms should be mailed to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413. No e-mail or fax copies will be accepted. Full proposal application packages, including any letters of support, should be submitted together in one package.

V. Application Review Information

A. Evaluation Criteria

(1) *Importance and/or relevance and applicability of proposed project to the program goals (50 percent):* This ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal, regional, State, or local activities.

For Focus Area 1, questions related to this criterion include:

(a) Does the proposal identify clear goals and objectives that are consistent with ROP priorities and, as appropriate, the CMSP Framework (available at *http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf*)? For applicants from regions without an established ROP (*e.g.,* Alaska and Hawaii), does the proposal demonstrate that they are working towards a regional ocean partnership?

(b) To what extent does the proposal address CMSP Guiding Principles?

(c) Does the proposal address an Area of Special Emphasis?

(d) Does the proposal identify outcomes that are focused and realistic given the time frame and scope of the project?

(e) Will the proposal advance ROP priorities and regional CMSP efforts? For applicants from regions without an established ROP, does the proposal advance regional CMSP efforts as well as show how the region will work towards establishing a ROP?

(f) If applicable, does the proposal clearly identify ROP goals for CMSP development? Are they achievable?

(g) Does the proposal identify primary partners, expand existing partnerships, and key stakeholders and describe how they will participate in project activities, including CMSP activities where applicable?

(h) Does the proposal reflect strong support from project partners?

(i) Does the proposal demonstrate either direct involvement or a letter of support from the lead ROP in the region? For applicants from regions without an established ROP, is the proposal supported by the relevant governors and lead State and Federal agencies and tribes involved in coastal and ocean management?

(j) Will the proposal result in benefits that are region-wide or transferable to other ROP and CMSP priorities and regions?

For Focus Area 2, questions include:

(a) Does the proposal contribute to the establishment or implementation of a long term regional ocean partnership?

(b) Does the proposal identify an effective development process that will result in a consensus for regional priorities, specific action steps to address those priorities, and tangible outcomes that will be accomplished?

(c) Establishing a regional ocean partnership may come with challenges/barriers (*i.e.,* entities in a region may be accustomed to traditions of competing for economic development, research funding, and other financial or social benefits). To what extent does the proposal identify such challenges/barriers and explain how such barriers will be overcome?

(d) Does the proposal adequately identify methods in which development activities will be coordinated to achieve active and meaningful participation by all partners, including various levels of governments, and appropriate stakeholders in the region?

(e) Does the proposal include methods to achieve lasting coordination for regional ocean governance and for the implementation of a regional ocean partnership?

(f) Does the partnership include participation by a large cross section of state, Federal and tribal governments and participation by other relevant interest groups?

(2) *Technical and scientific merit (25 percent):* This assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives.

Questions relevant to this criterion include:

(a) Is the approach appropriate for the stated goals and objectives?

(b) Are the project goals and objectives achievable within the proposed time-frame?

(c) Does the proposed approach incorporate current guidance, scientific, and/or technical advancements in the design and implementation of the proposed work?

(d) If geospatial data are to be acquired, does the proposal promote interoperability with other components of regional and national geospatial systems? Has a thorough search been conducted to ensure that data do not already exist that can meet the intended purpose of the proposed acquisition? Will the data be collected to national and/or international standards and specifications that promote multi-purpose uses in the future per Federal Geospatial Data Committee standards and the Ocean and Coastal Mapping Integration Act of 2009? Does the proposal comply with Executive Order 12906, *Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure?*

(3) Overall qualifications of the funding applicants (15 percent): This criterion ascertains whether the funding applicant and identified collaborators possess the necessary education, experience, training, facilities, and administrative resources to accomplish the project. Questions relevant to this criterion include:

(a) Are the investigators qualified and is the organizational framework appropriate to conduct a project of the nature and scope proposed?

(b) Are investigators from other agencies and institutions within the region included as key personnel on the project to capitalize on available expertise and promote a regional approach?

(c) Does the proposal adequately address the capacity of the applicant and partners to implement proposed work?

(d) Does the proposal adequately define how participation and accountability among principle investigators and partners will be sustained to the continued progress and success?

(4) *Project costs and metrics (10 percent).* This criterion evaluates the budget to determine if it is realistic and commensurate with the project needs and time-frame. Questions relevant to this criterion include:

(a) Does the proposal demonstrate that the budget is commensurate with project needs?

(b) Is the cost effectiveness of the proposal optimized through strategic partnerships with collaborating institutions, agencies, or private sector partners?

(c) Are the budget and budget justification adequately detailed to determine how requested funds will be used (*i.e.* salary, equipment, supplies, travel, *etc.*)?

(5) *Outreach and education (0 percent).* NOAA assesses whether this project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nation's natural resources. This

competition does not include this criterion.

B. Review and Selection Process

An initial administrative screening is conducted to determine compliance with requirements/completeness. All proposals will be evaluated and individually ranked in accordance with the assigned weights of the above evaluation criteria by at least three independent peer reviewers through a full merit review process (*i.e.,* a mail and panel review process). A mix of Federal and non-Federal reviewers will be used. No consensus advice will be given by the independent peer reviewers through mail reviews or on the review panels. The merit reviewer's ratings are used to produce a rank order of the proposals. The Selecting Official shall award according to rank order unless there is a specific justification for selecting out of rank order based upon factors listed in Section V.C. The Selecting Official or designee may also negotiate the funding level of the proposals to be recommended for funding. The Selecting Official will make the final recommendation for award to the Grants Officer, who is authorized to obligate the funds and execute the award. Proposals that are not funded in the current fiscal period may be considered for funding in another fiscal period without having to repeat the competitive review process.

C. Selection Factors

The merit review ratings shall provide a rank order to the Selecting Official for final funding recommendations. A program officer may first make recommendations to the Selecting Official applying the selection factors below. The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order based upon one or more of the following factors:

1. Availability of funding.
2. Balance/distribution of funds:
a. Geographically.
b. By type of institutions.
c. By type of partners.
d. By research areas.
e. By project types.
3. Whether this project duplicates other projects funded or considered for funding by NOAA or other Federal agencies.
4. Program priorities and policy factors.
5. Applicant's prior award performance.
6. Partnerships and/or Participation of targeted groups.
7. Adequacy of information necessary for NOAA staff to make a NEPA determination and draft necessary documentation before recommendations for funding are made to the Grants Officer.

The Selecting Official or designee may negotiate the funding level of the proposal.

D. Anticipated Announcement and Award Dates

The start date on proposals should be the first day of July, August or September, but no later than October 1, of 2011.

VI. Award Administration Information

A. Award Notices

Applications recommended for funding by the selecting official will be forwarded to the NOAA Grants Management Division by the Program Office. The applicant will be notified by the program office by e-mail that their application was recommended for funding. The applicant must be aware that the notification by the program office is NOT the official award notice. Official notification happens only when the applicant receives an award notice from the Grants Officer either by postal mail or electronically.

Unsuccessful applications for all Coastal Services Center programs will be destroyed after any FY 2012 funding actions are considered. Unsuccessful applicants will be notified by e-mail that their application was not recommended for funding no later than the proposed state date of the proposal.

B. Administrative and National Policy Requirements

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

Administrative and national policy requirements for all Department of Commerce awards are contained in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696). This notice may be obtained under *http://www.access.gpo.gov/su_docs/fedreg/a080211c.html.*

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for any proposal preparation costs. In addition, NOAA and DOC will not be responsible for project costs if this program fails to receive funding. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act (NEPA) Requirements

See the NEPA information in Section IV., B., of this announcement.

C. Reporting

Grant recipients will be required to submit financial and performance (technical) progress reports electronically through the NOAA Grants On-Line System. Instructions for submitting financial and progress reports will be provided by the NOAA Grants Management Division.

VII. Other Information

After electronic submission of the application through Grants.gov, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system before transmission to the grantor agency or has been rejected because of errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the Federal agency.

Official notification of an award notice is provided by the Grants Management Division, not the program office. If one incurs any costs before receiving an award agreement from an authorized NOAA grant official, one would do so solely at one's own risk of these costs not being included under the award.

The Coastal Services Center will not release the names of applicants submitting proposals unless ordered by a court or requested to do so by an appropriate NOAA official and administrative protocol. Applicants can use a NOAA public search feature to find out information about NOAA awards *https://grantsonline.rdc.noaa.gov/flows/publicSearch/begin.do* or go through the Freedom of Information Act process to request more information about grant competitions. More information about the NOAA FOI process is online at *http://www.rdc.noaa.gov/foia/.*

Successful applicants will be requested to ensure that all interim progress reports indicate whether financial reports have been submitted to NOAA's Grants Management Division and are up-to-date. Applicants in their final progress report will be asked to (a) Clearly state the resulting impact of their project and products in the coastal

management community; and (b) certify that "Final financial reports have been submitted to NOAA's Grants Management Division and a final funding draw-down has been made through the Automated Standard Application for Payments (ASAP)."

If equipment is purchased with grant funds, applicants may be asked to submit an equipment inventory in accordance with 15 CFR 14.34(f)(3), 15 CFR 24.32(b) or 15 CFR 24.32(d)(2) as an appendix to progress reports. Further, the program office recommends that recipients request disposition instructions for equipment approximately 150 days before the project period ends to allow sufficient time to have equipment disposition requests addressed before a project period ends. Equipment disposition instructions typically require that recipients complete an "other" award action request in Grants Online. NOAA will provide instructions for disposition in accordance with 15 CFR 14.34(g)–(h) and 15 CFR 24.32(g)(2).

Please be advised that potential funding applicants must register with Grants.gov before any application materials can be submitted. An organization's one time registration process may take up to three weeks to complete so please allow sufficient time to ensure applications are submitted before the closing date. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number and be registered in the Central Contractor Registry (CCR). Allow a minimum of five days to complete the CCR registration. (**Note:** Your organization's Employer Identification Number (EIN) will be needed on the application form.)

The Grants.gov site contains directions for submitting an application, the application package (forms), and is also where the completed application is submitted. Applicants using Grants.gov must locate the downloadable application package for this solicitation by the Funding Opportunity Number or the CFDA number (11.473). Applicants will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site.

After electronic submission of the application, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system before transmission to the grantor agency or has been rejected because of errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the Federal agency.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management.

[FR Doc. 2010–22645 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–841]

Polyvinyl Alcohol From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that sales of polyvinyl alcohol (PVA) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from the respondent, we are postponing by 60 days the final determination and extending provisional measures from a four-month period to not more than 6 months. Accordingly, we will make our final determination not later than 135 days after publication of this preliminary determination.

DATES: *Effective Date:* September 13, 2010

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0410 or (202) 482–4477 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act or the Department's regulations, 19 CFR part 351, are to those provisions in effect on September 27, 2004, the date of initiation of this investigation.

Background

On September 27, 2004, the Department initiated the antidumping duty investigation on PVA from Taiwan. *See Initiation of Anti Dumping Duty Investigation: Polyvinyl Alcohol From Taiwan,* 69 FR 59204 (October 4, 2004) (*Initiation Notice*). On October 22, 2004, the International Trade Commission (ITC) made a preliminary determination that there was not a reasonable indication of injury due to imports of the subject merchandise. *See Polyvinyl Alcohol From Taiwan,* 69 FR 63177 (October 29, 2004). As a result, the Department terminated the investigation.

The petitioner appealed the negative ITC preliminary determination to the Court of International Trade (CIT). On remand from the CIT, the ITC reversed its preliminary determination and found instead that there was a reasonable indication of injury due to imports of the subject merchandise. The CIT affirmed the ITC's remand determination. *See Celanese Chemicals, Ltd.* v. *United States,* Slip Op. 08–125 (CIT 2008). DuPont, an importer of the subject merchandise, appealed the CIT's decision to the Court of Appeals for the Federal Circuit (CAFC). On December 23, 2009, the CAFC affirmed the ITC's decision. *See Polyvinyl Alcohol From Taiwan; Determination,* 75 FR 15726 (March 30, 2010). The ITC notified the Department of its affirmative determination in the preliminary phase of an antidumping duty investigation concerning imports of PVA from Taiwan on March 25, 2010. *See* letter from the ITC dated March 25, 2010. On April 20, 2010, the Department issued a decision memorandum which stated that the deadline for its preliminary determination is July 18, 2010. *See* memorandum to Laurie Parkhill dated April 20, 2010, at 10.

On April 20, 2010, we issued the antidumping questionnaire to Chang Chun Petrochemical Co., Ltd. (CCPC). On May 24, 2010, we received a response to section A of our questionnaire from CCPC. On June 10, 2010, we received a response to sections B–D of our questionnaire from CCPC. We issued supplemental questionnaires to CCPC and received responses to these questionnaires from CCPC.

On June 17, 2010, the petitioner requested that the Department postpone its preliminary determination by 50 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days. *See Postponement of*

Preliminary Determination of Antidumping Duty Investigation: Polyvinyl Alcohol From Taiwan, 75 FR 38079 (July 1, 2010).

On July 22, 2010, and August 6, 2010, the petitioner submitted allegations that CCPC engaged in targeted dumping during the POI.

On July 28, 2010, the petitioner amended the scope of the investigation and the definition of the domestic like product.

On August 4, 2010, CCPC submitted comments on the scope of the investigation. On August 13, 2010, the petitioner submitted comments opposing CCPC's requested exclusions.

On August 6, 2010, the petitioner submitted comments for consideration in the preliminary determination.

On August 16, 2010, CCPC submitted comments on the petitioner's targeted-dumping allegations. On August 31, 2010, the petitioner submitted comments rebutting CCPC's arguments on the targeted-dumping allegations.

On August 20, 2010, CCPC submitted a request that, in the event that the Department issues an affirmative preliminary antidumping determination, the Department should extend the final determination to the maximum of 135 days after the date of publication of the preliminary determination. CCPC also requested that, in the event that the Department issues an affirmative preliminary antidumping determination, the Department should extend the application of provisional measures by the corresponding period of extension in accordance with section 733(d) of the Act.

On September 1, 2010, the petitioner submitted further comments regarding CCPC's reported physical characteristics.

Period of Investigation

The period of investigation (POI) is July 1, 2003, through June 30, 2004. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, September 2004. *See* 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid. PVA in fiber form and PVB-grade low-ash PVA are not included in the scope of this investigation. PVB-grade low-ash PVA is defined to be PVA that meets the following specifications: Hydrolysis, Mole % of 98.40 ± 0.40, 4% Solution Viscosity 30.00 ± 2.50 centipois, and ash—ISE, wt% less than 0.60, 4% solution color 20mm cell, 10.0 maximum APHA units, haze index, 20mm cell, 5.0, maximum. The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

On July 28, 2010, the petitioner amended the scope of the petition and the definition of the domestic like product to exclude "PVB-grade low-ash" PVA, which it defined as "PVA that meets the following specifications: Hydrolysis, Mole % of 98.40 ± 0.40, 4% Solution Viscosity 30.00 ± 2.50 centipois, and ash—ISE, wt% less than 0.60, 4% solution color 20mm cell, 10.0 maximum APHA units, haze index, 20mm cell, 5.0, maximum." *See* the petitioner's July 28, 2010, submission. We have adopted the petitioner's amendment and the scope of the investigation, described above, reflects this amendment.

On August 4, 2010, CCPC submitted comments on the scope of the investigation. Specifically, CCPC requested that the Department exclude 15 categories of merchandise that the Department excluded from the scope of the antidumping duty orders on PVA from Japan and from the People's Republic of China. CCPC argues that these exclusions are appropriate because the three proceedings are virtually contemporaneous, because the petitioner still cannot manufacture these products, and because doing so would allow U.S. Customs and Border Protection (CBP) to administer the three antidumping duty orders on PVA consistently.

On August 13, 2010, the petitioner submitted comments opposing CCPC's requested exclusions. The petitioner observes that the first product for which CCPC requested exclusion, PVA in fiber form, is already specifically excluded from the investigation. With respect to the remaining products, the petitioner states that CCPC's assertion that the petitioner cannot manufacture the products at issue is incorrect. The petitioner states that it has the competence to manufacture products that fall within or that are functionally equivalent to and commercially competitive with products that fall within all of CCPC's proposed exclusions that are at issue. The petitioner states that it is actively selling or developing markets for products that fall into several of these categories. The petitioner argues that its ability to compete in the domestic PVA market with products in any of these categories will be directly affected by dumped imports in these categories.

Because the petitioner opposes CCPC's proposed exclusions and because the petitioner has stated that it is both actively developing and capable of producing PVA that is commercially competitive with products that fall within all of CCPC's proposed exclusions (with the exception of PVA in fiber form, which is already excluded from the investigation), we have not adopted the scope exclusions requested by CCPC.

Targeted-Dumping Allegation

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. *See* section 777A(d)(1)(B) of the Act.

On July 21, 2010, the petitioner submitted a timely allegation of targeted dumping with respect to CCPC and asserted that the Department should apply the average-to-transaction methodology in calculating the margin for CCPC. In its allegation, the petitioner asserts that there are patterns of export prices (EPs) for comparable merchandise that differ significantly among purchasers and regions. On August 6, 2010, the petitioner amended its allegation to assert that there are patterns of EPs for comparable merchandise that differ significantly among time periods. The petitioner relied on the Department's targeted-dumping test in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) (collectively, *Nails*).

Because our analysis includes business-proprietary information, for a full discussion *see* Memorandum to Susan Kuhbach entitled "Less-Than-Fair-Value Investigation on Polyvinyl Alcohol from Taiwan: Targeted

Dumping—Chang Chun Petrochemical Co., Ltd.," dated September 7, 2010 (Targeted-Dumping Memo).

A. Targeted-Dumping Test

We conducted customer, regional, and time-period targeted-dumping analyses for CCPC using the methodology we adopted in *Nails* as modified in *Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 55183 (October 27, 2009) (test unchanged in final; 75 FR 14569 (March 26, 2010)), to correct a ministerial error.

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. *See* section 777A(d)(1)(B)(i) of the Act and *Nails.* In this test we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number or CONNUM). The test procedures are the same for the customer, region, and time-period targeted-dumping allegations. We based all of our targeted-dumping calculations on the U.S. net price which we determined for U.S. sales by CCPC in our standard margin calculations. For further discussion of the test and the results, *see* the Targeted-Dumping Memo.

As a result of our analysis, we preliminarily determine that there is a pattern of EPs for comparable merchandise that differ significantly among certain customers and time periods for CCPC in accordance with section 777A(d)(1)(B)(i) of the Act and our practice as discussed in *Nails.*

B. Price-Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the normal value to EPs or constructed export prices (CEPs) of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs and CEPs cannot be taken into account using the average-to-average methodology. As described above, we have preliminarily determined that, with respect to sales by CCPC for certain customers and time periods, there was a pattern of prices that differ significantly. We find that these differences cannot be taken into account using the average-to-average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group.

Once we determine that the customer, regional, or time-period pattern-of-price differences are significant, our recent practice has been to apply the average-to-transaction methodology to all sales regardless of whether they are targeted. *See, e.g., Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value,* 75 FR 14569 (March 26, 2010), and accompanying Issues and Decision Memorandum at Comment 1 (*Taiwan Bags*). Prior to the publication of *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008) (*Withdrawal of Regulations*), however, the regulation in effect when we initiated this investigation, 19 CFR 351.414(f)(2) (2004), specified that "the Secretary normally will limit the application of the average-to-transaction methodology to those sales that constitute targeted dumping."

The use of the qualifier "normally" in 19 CFR 351.414(f)(2) (2004) indicates that we have the discretion to depart from limiting the application of the average-to-transaction methodology to those sales that constitute targeted dumping if we find it appropriate to do so. We preliminarily determine that such a departure is appropriate in this investigation. After this investigation was initiated, we withdrew this regulation because we recognized that the regulation "may have established thresholds or other criteria that have prevented the use of this comparison methodology to unmask dumping, contrary to the Congressional intent." *See Withdrawal of Regulations,* 73 FR at 74931. We said further that "{w}ithdrawal {of the regulation} will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *Id.* Since the publication of *Withdrawal of Regulations,* we have refined our practice in cases involving targeted dumping. Specifically, "if the criteria of section 777A(d)(1)(B) of the Act are satisfied, the Department will apply average-to-transaction comparisons for all sales in calculating the weighted-average dumping margin." *See Taiwan Bags* and accompanying Issues and Decision Memorandum at Comment 1.

Accordingly, because 19 CFR 351.414(f)(2) (2004) gives us the discretion to depart from limiting the application of the average-to-transaction methodology to only those sales that constitute targeted dumping and because we have developed a practice which better reflects Congressional intent, we have applied the average-to-transaction methodology to all U.S. sales that CCPC reported and have not offset any margins found.

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

CCPC reported that the essential terms of sale (*i.e.,* price and quantity) were set on the date of the customer's order for both home-market and U.S. sales. For home-market sales, CCPC reported the "customer-order entry date" as the date of sale because home-market customers placed orders by telephone or online; as a result, there is no customer-order form and the date on which CCPC entered the order into its sales system is the closest date to when CCPC received the customer order. *See* CCPC's July 21, 2010, supplemental response at page 8. For U.S. sales, CCPC was able to report the date of the customer order as the date of sale because U.S. customers placed order by fax or by e-mail. *Id.*

We preliminarily determine that the material terms of sale are set on the invoice date for both home-market and U.S. sales. Although CCPC reported that the price and quantity did not change after the customer-order date for either its home-market or U.S. sales, CCPC reported that other terms of sale, such as the product code, designated customer, or packing type, changed after the customer-order date with respect to a number of both home-market and U.S. sales. *See* CCPC's August 20, 2010, supplemental response at Exhibits 4 and 8. The record is not clear as to the extent that changes in product type or packing type have on price. The record does demonstrate that there are significantly different costs associated with different packing types. *See* CCPC's section B–D response dated June 10, 2010, at exhibits 13 and 18. Therefore, we are preliminarily treating these types of changes as changes to the essential terms of sale. Accordingly, we have preliminarily determined that the invoice date is the date of sale with respect to CCPC's home-market and U.S. sales.

Fair-Value Comparisons

To determine whether sales of PVA to the United States by CCPC were made

at LTFV during the POI, we compared EP to normal value as described in the "U.S. Price" and "Normal Value" sections of this notice. As described in the "Targeted-Dumping Allegation" section, above, we made average-to-transaction comparisons for all of CCPC's reported sales and did not provide offsets for non-dumped comparisons.

Product Comparisons

We have taken into account the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, all products produced by the respondent that are covered by the description in the "Scope of the Investigation" section, above, and sold in the home market during the POI are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on eleven criteria to match U.S. sales of subject merchandise to home-market sales of the foreign like product: viscosity, molecular structure, hydrolysis, degree of modification, particle size, tackifier, defoamer, ash, color, volatiles, and visual impurities. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade for comparison to U.S. sales, we matched U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

CCPC reported viscosity, hydrolysis, and degree of modification using ranges rather than specific values because, it explained, CCPC sells PVA by grades which are defined by ranges. *See* CCPC's July 7, 2010, submission at pages 2–4. The petitioner has argued that the Department should require CCPC to code the product characteristics accurately and to assign the identical product-characteristic code to products that are identical with respect to the characteristic. According to the petitioner, the ranges CCPC used to report these characteristics include overlapping ranges, meaning that the different product codes could be employed for products with identical characteristics. As a result, the petitioner contends, products that are identical with respect to certain physical characteristics can be coded as different. The petitioner asserts that CCPC's reporting methodology prevents the Department from matching identical and most similar products accurately. The petitioner suggests that the Department use adverse facts available for CCPC's margin or collapse certain models for the preliminary determination.

We preliminarily determine that it would be inappropriate to revise CCPC's codes for reporting viscosity, hydrolysis, or degree of modification. CCPC has stated that it produces and sells PVA on the basis of grades which are defined principally in terms of ranges of hydrolysis, viscosity, and polymerization. *See* CCPC's July 7, 2010, submission at page 2. CCPC also submitted evidence indicating that other PVA producers also sell PVA on the basis of grades. Id. at Exhibits 1 through 3. Furthermore, CCPC's ranges for these characteristics correspond to the definitions of the grades it produces and sells in its ordinary course of business. Compare CCPC's May 14, 2010, section B response at pages 8–10 and its May 14, 2010, section C response at pages 39–40 with its product brochure at CCPC's May 14, 2010, section A response at Exhibit 16.

The petitioner does not dispute any of this. Rather, the petitioner's argument is based on the fact that certain ranges for viscosity overlap. As a preliminary matter, the ranges CCPC used to report hydrolysis and degree of modification do not overlap. Accordingly, with respect to these physical characteristics, the petitioner's concern about the assignment of different codes to identical products is not relevant.

With respect to viscosity, while there is overlap between certain viscosity codes, there are specific viscosities for which a product would be within one range but not the other. For example, CCPC's code 12 covers PVA with a viscosity of between 24 and 32 centipoises, code 13 covers PVA with a viscosity of between 25 and 30 centipoises, and code 14 covers PVA with a viscosity of between 27 and 33 centipoises. *See* CCPC's May 14, 2010, section B response at pages 8–10 and its May 14, 2010, section C response at pages 39–40. Thus, a sale of PVA with a viscosity between 27 and 30 centipoises could be assigned any three of these codes. By contrast, however, a sale of PVA with a centipoises of above 32 but below 33 could only be assigned a code of 14. While the petitioner is correct that the certificates of analysis which CCPC submitted indicate that the PVA corresponding to those certificates could be assigned any of these three codes, the petitioner based its argument on four certificates of analysis which CCPC submitted with its July 21, 2010, supplemental response. This is a very small sample in relation to the number of transactions CCPC submitted in its home-market and U.S. sales databases. *See* CCPC's July 21, 2010, supplemental response at Exhibits 6 and 7.

Furthermore, the record demonstrates that, with respect to certain grades of PVA which have overlapping viscosity codes, there are batches of these grades of PVA which could only be assigned one code but not another. For example, the first of the certificates of analysis CCPC submitted in Exhibit 5 of its July 21, 2010, supplemental response shows a grade which can only be assigned a particular viscosity code. If we were to adopt the petitioner's suggestion, we would collapse this viscosity code with another code, thus opening the possibility that we could treat non-identical merchandise as identical.

Furthermore, although the petitioner raised the possibility that we could treat identical products as non-identical products, there is no evidence on the record showing that we would actually do so. The two grades on the four certificates of analysis which the petitioner cites could all conceivably be assigned the same viscosity code, but the hydrolysis values on these certificates of analysis demonstrate that these two grades must be assigned different hydrolysis codes. *See* CCPC's July 21, 2010, supplemental questionnaire at Exhibit 4. Thus, even if we collapsed these viscosity codes, these two grades would still not be identical merchandise.

For the foregoing reasons, we preliminarily determine that it is not appropriate to modify CCPC's reported physical characteristics.

Export Price

In accordance with section 772(a) of the Act, we used EP for CCPC's U.S. sales because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation. As described in the "Targeted-Dumping Allegation" section, above, we compared transaction-specific EPs to the weighted-average normal values.

We calculated EP based on the packed price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. *See* memorandum to the file entitled "Preliminary Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Polyvinyl Alcohol from Taiwan—Analysis Memorandum for Chang Chun Petrochemical Co., Ltd." dated September 7, 2010 (Analysis Memo), for additional information.

Normal Value

A. Home-Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.,* the aggregate volume of home-market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home-market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. *See* section 773(a)(1)(B) of the Act. Based on this comparison, we have preliminarily determined that CCPC had a viable home market during the POI. Consequently, we based normal value on home-market sales in accordance with section 773(a)(1)(B) of the Act.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value based on sales in the comparison market at the same level of trade as the EP sales in the U.S. market. Pursuant to 19 CFR 351.412(c)(1), the normal-value level of trade is based on the starting price of the sales in the comparison market or, when normal value is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses and profit. For EP sales, the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison-market sales are at a different level of trade than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and the comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa,* 62 FR 61731, 61733 (November 19, 1997).

In this investigation, we obtained information from CCPC regarding the marketing stages involved in making its reported home-market and U.S. sales, including a description of the selling activities the respondent performed for each channel of distribution.

During the POI, CCPC reported that it sold PVA in the home market through a single channel of distribution. We found that the selling activities associated with all sales through this channel of distribution did not differ. Accordingly, we found that the home-market channel of distribution constituted a single level of trade.

CCPC reported that its EP sales were made to distributors through a single channel of distribution. We found that the selling activities associated with all sales through this channel of distribution did not differ. Accordingly, we found that the EP channel of distribution constituted a single level of trade. We found that the EP level of trade was identical to the home-market level of trade in terms of selling activities. Thus, we matched CCPC's EP sales at the same level of trade in the home market and made no level-of-trade adjustment. *See* Analysis Memo.

C. Cost of Production

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of PVA in the home market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a countrywide sales-below-cost-investigation to determine whether sales were made at prices below their respective COP (*see Initiation Notice,* 69 FR at 59206).

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for selling, general and administrative expenses (SG&A), financial expenses, and comparison-market packing costs (*see* the "Test of Comparison-Market Sales Prices" section below for treatment of home-market selling expenses and packing costs). We relied on the COP data submitted by CCPC with one exception: We increased the reported general and administrative (G&A) expenses to include a non-operating expense line-item from the financial statements, "loss on work stoppages." This expense is associated with a temporary shutdown of CCPC's operations for its copper foil division. *See* Memorandum to Neal Halper from Ernest Gziryan entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Chang Chun Petrochemical Co. Ltd.," dated September 7, 2010.

2. Test of Home-Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were adjusted for discounts and were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses, adjusted as discussed below.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities" and, thus, we disregard below-cost sales. *See* section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of CCPC's home-market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

D. Calculation of Normal Value Based on Home-Market Prices

We based normal value on packed, delivered prices to unaffiliated customers in the home market.

The petitioner has argued that the Department should remove "transport" sales from the home-market sales

database. Transport sales occur when the transportation company is responsible for any loss during the shipment from CCPC's factory to the customer; the transportation company will compensate the customer for the loss of product by purchasing an equal amount of the product from CCPC and delivering the replacement product to the customer. *See* CCPC's July 21, 2010, supplemental response at 20. The petitioner contends that these transactions are not really sales but are reimbursement by the transportation company for lost product.

We preliminarily determine that these transactions are sales. Any reimbursement is between the transportation company and the original customer. From CCPC's point of view, it made a sale to the original customer and then made a sale to a transport company and it gets compensated for both. Accordingly, we have not removed these sales from our analysis. *See* Analysis Memo.

We made an adjustment to the starting price, where appropriate, for discounts in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, for movement expenses under section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from, and adding U.S. direct selling expenses to, normal value. *See* also 19 CFR 351.410.

We made an adjustment to CCPC's reported credit expense for certain U.S. sales where the customer paid by letter of credit and CCPC "negotiated with the paying banks for earlier release of customer payments with interest." *See* CCPC's July 21, 2010, supplemental response at page 33. CCPC reported the date of payment, which it used to calculate imputed credit expenses, for such sales based on when it received funds from the bank. Id. at page 20. We preliminarily determine that it is appropriate to use the date when the customer actually paid as the date of payment. Although CCPC received funds from the customer's bank at an earlier date, it had to pay interest to the customer's bank for early release of the funds. Id. at page 33. Thus, this is essentially a loan transaction between CCPC and the customer's bank; CCPC's customer is not involved. Indeed, CCPC acknowledges that its customers did not pay earlier than the payment terms prescribed. *Id.* Because the circumstance-of-sale adjustment to normal value for imputed credit expenses is meant to capture differences in the credit terms a respondent extends its customers in different markets, it is appropriate to use the date that the customer actually paid as the date of payment rather than the date on which CCPC negotiated a loan with the customer's bank. Accordingly, where CCPC's reported payment date for these U.S. sales were less than the payment terms prescribed, we have revised the payment date to match the prescribed payment terms and have recalculated imputed credit expenses accordingly.

We made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. We deducted the costs of home-market packing materials from and added U.S. packing costs to normal value in accordance with sections 773(a)(6)(A) and (B) of the Act.

The Department's regulations at 19 CFR 351.401(g)(1) provide that the Department may consider allocated expenses where the Department "is satisfied that the allocation methodology does not cause inaccuracies or distortions." We preliminarily determine that CCPC's reported allocation of its packing-labor expense is unreasonably distortive because CCPC allocated packing labor equally to all sales even though U.S. sales are generally packed using many more packing materials (and, therefore, presumably require more time to pack) than home-market sales. *See* CCPC's questionnaire response dated June 10, 2010, at exhibits 13 and 18. CCPC has admitted that it "incurred its packing expenses solely based on outside packing labor's overall time performed." *See* CCPC's August 20, 2010, supplemental response at page 4. Despite our two requests of CCPC to recalculate packing labor to reflect differences in labor time associated with different packing types, CCPC has failed to do so. *See* CCPC's July 21, 2010, response at page 25 and CCPC's August 20, 2010, supplemental response at pages 3–4. CCPC asserts that its allocation is accurate because it incurred packing expenses based on time "regardless of the packing types and markets of polyvinyl alcohol." *See* CCPC's August 20, 2010, supplemental response at page 4. While it may be true that there is no difference in the per-hour rate charged by the providers of the packing service based on market or packing type, U.S. sales are packed using many more packing materials than home-market sales; we commented in our supplemental questionnaire that, as a result, it would presumably mean that it would take more time to pack U.S. sales than home-market sales. CCPC did not address this comment in its response. *Id.* at pages 3–4.

As a result of CCPC's allocation, we preliminarily determine that the reported packing labor for U.S. sales is understated while the reported packing labor for home-market sales is overstated. Each of these distortions has the effect of reducing the dumping margin.

Section 776(a)(1)(A) of the Act provides that the Department may use the facts available if necessary information is not available on the record. Because CCPC did not provide a reasonable allocation methodology to account for the difference in packing times, we have preliminarily determined that the use of facts available with respect to CCPC's packing-labor expenses is warranted.

Section 776(b) of the Act provides that the Department may use an adverse inference when using the facts available when a respondent has not acted to the best of its ability to provide necessary information. Because CCPC did not provide a reasonable allocation methodology to account for the difference in packing times despite our multiple requests to do so, we have preliminarily determined that an adverse inference with respect to CCPC's packing-labor expenses is warranted. Accordingly, as adverse facts available, we have denied CCPC's claimed packing-labor adjustment for home-market sales and we have allocated all of CCPC's packing-labor expenses to export sales. Because we are using the actual expenses and shipments reported by CCPC rather than secondary information, corroboration under section 776(c) of the Act is not necessary.

Currency Conversion

It is our normal practice to make currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank. We have converted all prices, costs, expenses, and adjustments denominated in Taiwan dollars into U.S. dollars in accordance with our normal practice.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination for CCPC.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of PVA from Taiwan that are entered, or

withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margins, as indicated below, as follows: (1) The rate for CCPC will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 3.02 percent, as discussed in the "All-Others Rate" section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Weighted-average margin (percent)
Chang Chun Petrochemical Co., Ltd.	3.02
All Others	3.02

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. CCPC is the only respondent in this investigation for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for CCPC, 3.02 percent. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy,* 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia,* 72 FR 60636 (October 25, 2007)).

Disclosure

We will disclose the calculations performed in our preliminary determination to interested parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine within 75 days after the date of that affirmative determination whether imports of PVA from Taiwan are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(3) of the Act).

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party. *See* also 19 CFR 351.310. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain the following: (1) The party's name, address, and telephone number; (2) a list of participants; (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise or, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On August 20, 2010, CCPC requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, CCPC requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 7, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–22776 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from Productos Laminados de Monterrey S.A. de C.V. (Prolamsa), Nacional de Acero S.A de C.V (Nacional), Ternium S.A de C.V. (Ternium) and petitioners,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on light-walled rectangular pipe and tube (LWRPT) from Mexico. The review covers imports of subject merchandise from nine firms, two of which were selected as mandatory respondents (*i.e.,* Maquilacero and Regiomontana de Perfiles y Tubos S.A. de C.V.). The period of review (POR) is January 30, 2008, to July 31, 2009.

We preliminarily determine that sales of LWRPT from Mexico have been made below normal value (NV) by Maquilacero and Regiopytsa during the POR. If these preliminary results are adopted in our final results of this administrative review, we will issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP). Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issues; (2) a brief summary of the argument; and (3) a table of authorities.

DATES: *Effective Date:* September 13, 2010.

FOR FURTHER INFORMATION CONTACT: Edythe Artman, Ericka Ukrow (Maquilacero), or John Drury, Brian Davis (Regiopytsa), AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3931, (202) 482–0405, (202) 482–0195, or (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2008, the Department published in the **Federal Register** the antidumping duty order covering, *inter alia,* LWRPT from Mexico. *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008) (*Order*). On August 3, 2009, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of this order entitled *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 74 FR 38397 (August 3, 2009), covering, *inter alia,* LWRPT from Mexico for the POR (*i.e.,* January 30, 2008, through July 31, 2009).

In response, on August 28, 2009, petitioners requested that the Department conduct an administrative review of entries of subject merchandise made by nine Mexican producers/exporters[2] for the POR January 30, 2008, through July 31, 2009. In addition, on August 31, 2009, the Department received requests for review from three Mexican exporters/producers and their affiliates included in the petitioner's request (*i.e.,* Prolamsa, Nacional, and Ternium).

On September 22, 2009, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period January 30, 2008, through July 31, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224 (September 22, 2009) (*Initiation Notice*).[3]

On September 22, 2009, Ternium S.A. de C.V., and its affiliates Hylsa S.A. de C.V.; Galvak S.A. de C.V.; and Industrias Monterrey S.A. de C.V. requested that the Department rescind the review of these companies and/or clarify that the administrative review of Ternium and its affiliates was initiated solely based on Ternium's request for review. Based on 19 CFR 303(f)(3)(ii), Ternium alleged that petitioner's request was invalid due to the fact that the certificate of service did not indicate that copies were served on counsel to Ternium and its affiliates or on these companies directly. In response, petitioner contended that domestic parties complied with the Department's service regulations at 19 CFR 303(f)(3)(ii) by serving a copy of the review request to all parties on the latest public service list for the proceeding, thus, using the list generated in the investigation of the present proceeding. Petitioners also argued that even if domestic parties did not technically comply with the Department's notice regulation, service in accordance with the Department's latest service list for the proceeding represents a good faith attempt to service. Petitioners re-filed their review request with a revised public service list and specifically served Ternium parties concurrent with the filing on September 25, 2009. In its response letter to Ternium's request, on October 14, 2009, the Department clarified that the initiation of Ternium and its affiliates was based on both Ternium's request for review, dated August 31, 2009, and petitioner's review request, dated August 28, 2009. Moreover, as noted above, a request for review with corrected errors was served to all parties and filed on September 25, 2009, demonstrating a good faith attempt to comply with the Department's service requirements on behalf of petitioners. *See* Letter from petitioners titled, "Light-Walled Rectangular Pipe and Tube from Mexico: Administrative Review," dated September 25, 2009.

On September 28, 2009, the Department issued a letter to all interested parties indicating its intention to select mandatory respondents based on U.S. import data obtained from U.S. CBP and provided parties an opportunity to comment on the CBP data. *See* Letter from the Department titled, "To All Interested Parties," dated September 28, 2009. Petitioners responded, on October 1, 2009, and recommended the Department choose the largest exporters by volume as respondents. In addition, in its October 16, 2009, letter, Prolamsa requested to be selected as a mandatory respondent alleging that it is the largest Mexican producer and exporter of LWRPT to the United Sates, and also

[1] Petitioners include Atlas Tube, Bull Moose Tube Company, and Searing Industries, Inc.

[2] These producers/exporters are Prolamsa, Maquilacero S.A. de C.V. (Maquilacero), Regiomontana de Perfiles y Tubos S.A. de C.V. (Regiopytsa), Nacional, Industrias Monterrey S.A. de C.V. (IMSA), Perfiles y Herrajes LM S.A. de C.V. (Perfiles y Herrajes), Galvak S.A. de C.V. (Galvak), Hylsa S.A. de C.V. (Hylsa), and Ternium.

[3] As noted in the memorandum to Richard O. Weible, Director, AD/CVD Operations, Office 7, entitled, "Respondent Selection Memorandum," dated October 15, 2009, there were spelling errors with respect to the names of certain companies for which we initiated reviews in our *Initiation Notice* at 74 FR 48225. We published a correction regarding these company names in the following month's notice of initiation of antidumping and countervailing duty reviews and also correctly identified the POR as January 30, 2008, through July 31, 2009, *see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 54958 (October 26, 2009).

because the number of valid, pending review requests is not large.

On October 15, 2009, the Department determined that, because it was not feasible to examine all nine producers/exporters of the subject merchandise; the most appropriate methodology for purposes of this review was to select the two largest producers/exporters by export volume. Accordingly, the Department selected Maquilacero and Regiopytsa as mandatory respondents.[4] *See* Memorandum to Richard O. Weible, Director, AD/CVD Operations, Office 7, "Respondent Selection Memorandum," dated October 15, 2009.

The Department issued its standard antidumping duty questionnaire to Maquilacero and Regiopytsa on October 16, 2009.

Maquilacero

Maquilacero submitted its response to section A of the questionnaire (AQR) on November 16, 2009, its response to sections B and C of the questionnaire (BQR, CQR, respectively) on December 8, 2009, and section D response (DQR) on December 14, 2009. On January 19, 2010, Maquilacero submitted cost data using quarterly averaging cost periods and requested that the Department rely on this quarterly cost data for purposes of calculating its margin. The Department issued a supplemental questionnaire to Maquilacero for sections A through C of the questionnaire on February 2, 2010. Maquilacero filed its response on March 4, 2010. On April 8, 2010, the Department issued a second supplemental questionnaire (SSQR) covering sections A through C of the Department's antidumping duty questionnaire. On April 30, 2010, Maquilacero filed its response to the Department's SSQR. On May 14, 2010, the Department issued its first supplemental questionnaire covering section D of the Department's antidumping duty questionnaire. On June 14, 2010, Maquilacero filed its response to the Department's May 14, 2010, section D supplemental questionnaire (FDQR). Maquilacero submitted its response to the Department's June 14, 2010, third supplemental questionnaire (TSQR) on June 30, 2010. On August 9, 2010, the Department issued a second supplemental section D questionnaire (SDQR), and on August 11, 2010, a fourth supplemental questionnaire covering sections A through C. Maquilacero submitted its response to the Department's SDQR on August 17, 2010, and its response to the fourth supplemental questionnaire on August 23, 2010.

The Department received no comments on any of Maquilacero's questionnaire responses from petitioners.

Regiopytsa

Regiopytsa submitted its response to section A of the questionnaire (RAQR) on November 24, 2009, and its response to sections B and C of the questionnaire (RBQR, RCQR, respectively) on December 8, 2009. On December 22, 2009, the Department received a company-specific allegation from petitioners that home market sales made by Regiopytsa were made at prices below the cost of production. On January 25, 2010, petitioners, at the Department's request, revised their December 22, 2009 cost allegation. *See* Memo to the File titled, "Telephone Call with Petitioners' Counsel Regarding Sales-Below-Cost Allegation for Regiomontana de Perfiles y Tubos S.A. de C.V.," dated January 12, 2010 (Cost Allegation Memo), which explains that petitioners must submit a cost test comparing the net home market price with the cost of production rather than the cost of manufacture. On February 16, 2010, the Department initiated a sales-below-cost of production investigation with respect to Regiopytsa. *See* Memorandum to the File titled, "The Petitioners' Allegation of Sales Below the Cost of Production for Regiomontana de Perfiles y Tubos S.A. de C.V."

On February 19, 2010, the Department issued a letter to Regiopytsa requesting that it respond to section D of the Department's antidumping duty questionnaire. On March 3, 2010, the Department issued a supplemental questionnaire covering Regiopytsa's RAQR, RBQR, and RCQRs. On March 22, 2010, Regiopytsa submitted its response to section D of the Department's antidumping duty questionnaire (RDQR). On March 31, 2010, Regiopytsa submitted its response to the Department's March 3, 2010 supplemental questionnaire (RSQR). On April 16, 2010, petitioners submitted comments covering both Regiopytsa's RDQR and RSQR. On April 30, 2010, Regiopytsa submitted an additional response containing supplemental information covering the Department's March 3, 2010, supplemental questionnaire (RSSQR). On May 14, 2010, the Department issued a supplemental questionnaire covering Regiopytsa's RDQR. On May 17, 2010, the Department issued a supplemental questionnaire covering both Regiopytsa's RSQR and RSSQRs. On June 11, 2010, Regiopytsa submitted its response to the Department's May 14, 2010 supplemental questionnaire (RSDQR). On June 18, 2010, Regiopytsa submitted its response to the Department's May 17, 2010 supplemental questionnaire as well as provided additional information related to the Department's May 14, 2010, supplemental questionnaire covering Regiopytsa's RDQR (collectively, RSSQR).

On July 15, 2010, Regiopytsa submitted its minor corrections related to the sales verification (*see* letter titled, "Light-Walled Rectangular Pipe and Tube from Mexico: Submission of Minor Corrections") and on July 21, 2010, it submitted the sales verification exhibits (*see* letter titled, "Light-Walled Rectangular Pipe and Tube from Mexico: Submission of Sales Verification Exhibits"). On July 26, 2010, Regiopytsa submitted is minor corrections related to the cost verification (*see* letter titled, "Light-Walled Rectangular Pipe and Tube from Mexico: Submission of Minor Corrections") and on July 27, 2010, it submitted the cost verification exhibits (*see* letter titled, "Light-Walled Rectangular Pipe and Tube from Mexico: Submission of Cost Verification Exhibits"). On August 30, 2010, the Department requested Regiopytsa revise its cost file presented during the Department's July 19, 2010 through July 23, 2010 cost verification. Additionally, on August 31, 2010, the Department requested Regiopytsa revise its home market and U.S. sales databases pursuant to the Department's verification findings and the minor corrections presented by company officials at the start of the verifications. *See* Memorandum to the File titled, "Telephone Call with Counsel to Regiomontana de Perfiles y Tubos S.A. de C.V. ("Regiopytsa") Requesting Revised COP File Reflecting Certain Minor Corrections Presented at Verification," dated August 30, 2010 and Letter to Regiopytsa from Angelica L. Mendoza, Program Manager, regarding Submission of Revised Sales Databases, dated August 31, 2010. Regiopytsa submitted its revised cost database on August 31, 2010, and its revised sales databases on September 2, 2010.

Non-Selected Companies

In situations where we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary

[4] The companies not selected as mandatory respondents for this review are Prolamsa, Nacional, Industrias Monterrey S.A. de C.V., Perfiles y Herrajes LM S.A. de C.V., Galvak S.A. de C.V., Hylsa S.A. de C.V., and Ternium.

information but where use of a simple average does not yield the best proxy of the weighted-average margin relative to publicly available data, normally we will use the publicly available figures as a matter of practice. *See Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53,661 (September 1, 2010). *See* "Rates for Non-Selected Companies" below.

Tolling of Deadlines

As explained in the memorandum from the Deputy Assistant Secretary (DAS) for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. Therefore, the deadline for the preliminary results of this review became May 17, 2010.

Subsequently, on May 10, 2010, the Department published in the **Federal Register** a notice extending the time limits for the preliminary results of this review. *See Light-Walled Rectangular Pipe and Tube from Mexico; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 25841 (May 10, 2010). This extension established the deadline for these preliminary results as September 7, 2010, at 25842.

Period of Review

The POR is January 30, 2008, through July 31, 2009.

Scope of the Order

The merchandise that is the subject of this order is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.307, we conducted sales and cost verifications of the questionnaire responses of Regiopytsa from July 12, 2010, through July 16, 2010 (sales) and July 19, 2010, through July 23, 2010 (cost). We used standard verification procedures, including on-site inspection of Regiopytsa's production facility in Apodaca, Mexico. Our verification results are outlined in the following memoranda: (1) Memorandum to the File, through Angelica L. Mendoza, Program Manager, "Verification of the Home Market and Export Price Sales Responses of Regiomontana de Perfiles y Tubos S.A. de C.V. in the Administrative Review of the Antidumping Duty Order on Light-Walled Rectangular Pipe and Tube from Mexico," dated September 7, 2010 (Sales Verification Report); and (2) Memorandum to File, through Neal Halper, "Verification of the Cost Response of Regiomontana de Perfiles y Tubos S.A. de C.V. in the Antidumping Duty Review of Light-Walled Rectangular Pipe and Tube from Mexico," dated September 7, 2010 (Cost Verification Report). Public versions of these reports are on file in the Central Records Unit (CRU) located in room 7046 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

Affiliated Respondents

Under section 771(33)(E) of the Act, if one party owns, directly or indirectly, five percent or more of the other, such parties are considered to be affiliated for purposes of the antidumping law. Furthermore, pursuant to 19 CFR 351.403, a respondent is required to report the downstream sales of its affiliate(s) to the first unaffiliated customer if the respondent's sales to that affiliate, (1) account for greater than five percent of the respondent's total home market sales of foreign like product, and (2) if those sales to the affiliate are determined to not be at arm's length.

Maquilacero

In the final determination of the sales at less-than-fair-value investigation of LWRPT from Mexico, the Department determined that, pursuant to section 771(33)(E), Maquilacero had one affiliated party and used the downstream sales reported by Maquilacero's affiliate. *See Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Mexico,* 73 FR 35649 (June 24, 2008). For purposes of this administrative review, and pursuant to section 771(33)(E) of the Act, we determined that Maquilacero owns, directly or indirectly, five percent or more of another party and, therefore, Maquilacero submitted its affiliate's downstream sales as well as its POR sales of the foreign like product to this affiliate.

Regiopytsa

For purposes of this administrative review, and pursuant to section 771(33)(E) of the Act, we determined that Regiopytsa owns, directly or indirectly, five percent or more of another party. *See* Regiopytsa's RAQR at pages A–13 through A–18. However, at page 5 of its RSQR and page 3 of its RSSQR, Regiopytsa indicated that sales of merchandise that would constitute the foreign like product were made to its affiliate in the home market during the POR. Therefore, we asked that Regiopytsa report its downstream sales from the affiliate to unaffiliated customers. We also performed an arm's-length test. Due to the proprietary nature of the discussion, please *see* memorandum to the file titled, "Analysis of Data Submitted by Regiomontana de Perfiles y Tubos S.A. de C.V. for the Preliminary Results of the Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Mexico" (A–201–836) and dated September 7, 2010 (Regiopytsa Preliminary Analysis Memo Memorandum), for a detailed explanation.

Fair Value Comparisons

To determine whether sales of subject merchandise were made in the United States at less than fair value, we compared the export price (EP) to the NV, as described in the "Export Price"

and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we compared the EP of sales within the POR to the monthly weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Price-to-Price Comparisons" section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Maquilacero and Regiopytsa covered by the description in the "Scope of the Order" section above, and sold in the home market during the POR, to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We relied on six characteristics to match U.S. sales of subject merchandise to home sales of the foreign like product: (1) Steel input type; (2) whether metallic coated or not; (3) whether painted or not; (4) perimeter; (5) wall thickness; and (6) shape. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's original October 16, 2009, questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales made in the home market at the same level of trade (LOT) as EP or the constructed export price (CEP). The NV LOT is based on the starting price of sales in the home market or, when NV is based on constructed value (CV), that of the sales from which we derived selling, general, and administrative (SG&A) expenses and profit. *See also* 19 CFR 351.412(c)(1)(iii). With respect to CEP transactions in the U.S. market, the CEP LOT is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under section 772(d) of the Act. *See* 19 CFR 351.412(c)(1)(ii). For EP, it is the starting price, which is usually from exporter to importer. *See* 19 CFR 351.412(c)(1)(i). In this review, Maquilacero and Regiopytsa claimed their sales to the United States were entirely EP sales.

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the home market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act and 19 CFR 351.412. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

Maquilacero

We obtained information from Maquilacero regarding the marketing stages involved in making their reported home market and U.S. sales to both unaffiliated customers. Maquilacero provided a description of all selling activities performed, along with a flowchart and description comparing the LOTs among each channel of distribution and customer category for both markets. *See* Maquilacero's AQR at A–13 through A–16, Exhibit A–6, and FSQR at 15 through 18 and Exhibit SA–10.

Maquilacero sold LWRPT to end-users and retailers/distributors in both the home and U.S. markets.

For the U.S. market, Maquilacero reported one LOT, with one channel of distribution, for its EP sales. *See* FSQR at 17. Based on our analysis of Maquilacero's selling functions for its sales to the United States, we determine that there was one LOT, *i.e.,* the EP LOT (LOTU1), for its U.S. sales.

For the home market, Maquilacero identified two channels of distribution described as follows: (1) Direct sales made by Maquilacero, and (2) indirect sales made by its affiliated reseller to the first unaffiliated customer. Maquilacero further reported that the downstream sales through its affiliated reseller were made at a distinct LOT, resulting in two LOTs in the home market. We reviewed the intensity at which Maquilacero performed each of the claimed selling functions with respect to each claimed channel of distribution. While we find small differences in the degree of selling functions that exist between Maquilacero and its affiliated reseller; such differences are not so significant that they would constitute a distinction in the performance of selling activities or have an effect on price comparability. Therefore, based on our analysis of all of Maquilacero's home market selling functions, we preliminary find that the selling functions for the reported channels of distribution constitute one LOT in the home market, the NV LOT. For further discussion, *see* the "Level of Trade" section in the Memorandum to the File, through Angelica L. Mendoza, Program Manager, Office 7, entitled "Analysis of Data Submitted by Maquilacero S.A. de C.V. for the Preliminary Results of the Antidumping Duty Administrative Review on Light-Walled Rectangular Pipe and Tube from Mexico," dated September 7, 2010. (Maquilacero Preliminary Analysis Memo).

We then compared the NV LOT, based on the selling functions associated with the transactions between Maquilacero and its affiliated reseller in the home market, to the EP LOT, which is based on the selling functions associated with the transaction between Maquilacero and its customers, based on our analysis of record evidence, we find that the degree to which Maquilacero provides the selling functions for its customers in both markets to be similar (*i.e.,* sales forecasting, strategic/economic planning, advertising and promotion, packing, order input/processing, market research, cash and early payment discounts, warranty service, sales and marketing support, technical assistance, and after-sales services). Therefore, we matched EP sales to sales at the same LOT in the home market and did not make a LOT adjustment. *See* section 773(a)(7)(A) of the Act. A complete and detailed explanation of our level of trade analysis can be found in the "Level of Trade" section of Maquilacero's Preliminary Analysis Memo.

Regiopytsa

We obtained information from Regiopytsa regarding the marketing stages involved in making sales in both the reported home and U.S. markets. Regiopytsa provided a description of all selling activities performed among each channel of distribution and customer category for both markets, along with a flowchart and description comparing the LOTs. *See* Regiopytsa's RAQR at A–18 through A–23, and Exhibit A–4.

For both the home market and U.S. market, Regiopytsa sold LWRPT to end-users and retailers/distributors.

In the U.S. market, Regiopytsa made only EP sales. The company reported one LOT, with one channel of distribution to two classes of customers, which were distributors and steel service centers. *See* RAQR at A–19 through A–20 and Exhibit A–4. Based on our analysis of Regiopytsa's selling functions for its sales to the United States, we determine that there was one LOT for its U.S. sales.

For sales in the home market, Regiopytsa reported one channel of distribution to two classes of customers,

which were distributors and end-users. *Id.* Certain home market customers were affiliated parties. For all sales to its affiliates, the merchandise was resold to unaffiliated customers. However, Regiopytsa reported a single level of trade in the home market. Based on our analysis of all of Regiopytsa's home market selling functions, we preliminary find that the selling functions for the reported channel of distribution constitute one LOT in the home market, the NV LOT. For further discussion, *see* the "Level of Trade" section in the Memorandum to the File, from John Drury and Brian Davis, International Trade Compliance Analysts, entitled, "Analysis of Data Submitted by Regiomontana de Perfiles S.A. de C.V. for the Preliminary Results of the Antidumping Duty Administrative Review on Light-Walled Rectangular Pipe and Tube from Mexico," dated September 7, 2010 (Regiopytsa Preliminary Analysis Memo).

We then compared the NV LOT, based on the selling functions associated with the sales at the NV LOT, to the EP LOT. Based on our analysis of record evidence, we preliminarily find that the degree to which Regiopytsa provides the selling functions for its customers in the home market to be greater than those provided in the U.S. market. While both markets had many similar selling functions (*i.e.,* sales promotion, packing, inventory maintenance, and after-sales services), Regiopytsa provided certain selling functions in the home market that it did not provide in the U.S. market (*i.e.,* providing discounts, commissions to selling agents, and post-sale warehousing). However, we preliminarily find that we are unable to quantify the differences in levels of trade because we have found a single level of trade in Regiopytsa's home market. Therefore, we matched the EP sales to HM sales without making an adjustment for LOT. *See* section 773(a)(7)(A) of the Act. A complete and detailed explanation of our level of trade analysis can be found in the "Level of Trade" section of the Regiopytsa's Preliminary Analysis Memo.

Date of Sale

The Department will normally use invoice date, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if it better reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(i).

Maquilacero

Maquilacero reported the invoice date as the date of sale for all sales made in each channel of distribution for both the home and U.S. markets. *See* Maquilacero's BQR at page B–25, CQR at C–20, First Supplemental Questionnaire Response (FSQR) at 27 and 49, and the Affiliate's Section B Questionnaire Response (AFBQR) at B–23. Pursuant to 19 CFR 351.401(i), the Department will normally use the invoice date as the date of sale unless an interested party submits information that supports the use of a different date.

For purposes of this review, we examined whether invoice date or another date better represents the date on which the material terms of sale were established. In its FSQR at page 29, Maquilacero states that sales are invoiced at the price in effect at the time of shipment; therefore, changes in the material terms of sale, such as price, can occur until the issuance of the invoice on the date of shipment. The Department examined sales documentation, including order confirmations and invoices, provided by Maquilacero for its U.S. market sales (*e.g.,* FSQR at 30 thorough 31, Exhibits SA–3 and SA–4) and found that the material terms of sale were set on the date on which the invoice is issued, which is coincident with the date of shipment. Therefore, we preliminarily determine that invoice date is the appropriate date of sale for the U.S. market sales in this administrative review because it better represents the date upon which the material terms were established. *See* Maquilacero's FSQR at 27, 30 through 31 and exhibit SA–3 for a sample sale.

With respect to Maquilacero's home market sales, there were small differences in quantity between purchase order, order confirmation, and invoice date. Based on record evidence, the purchase order is subject to cancellation, and all material terms of sale are subject to change up until the merchandise is released for shipment at the date of the invoice. *See* FSQR at 27, 31 and exhibit SA–4 for a sample sale. Therefore, for Maquilacero's home market sales, we have preliminarily used invoice date as the date of sale. *See* Maquilacero's Preliminary Analysis Memo for a further discussion of this issue.

Regiopytsa

Regiopytsa reported the invoice date as the date of sale for all sales made in each channel of distribution for both the home (except where noted below) and U.S. markets. *See* Regiopytsa's RAQR at page A–32, RBQR at page B–16, and RCQR at C–14. For purposes of this review, we examined whether invoice date or another date better represents the date on which the material terms of sale were established for Regiopytsa's home market and U.S. sales. The Department examined sales documentation, including order confirmations and invoices, provided by Regiopytsa for both its home market and U.S. sales and found that the material terms of sale were set on the date on which the invoice is issued. *See* Regiopytsa's RAQR at attachment 6 for sample home market sales documents (*i.e.,* purchase order, invoice, credit notice, and weight slip) and at attachment 7 for sample U.S. sales documents (*i.e.,* purchase order, internal order (export), invoice, packing list, and U.S. Customs Entry Summary Form 7501).

With respect to its home market, Regiopytsa explained that certain sales involved "special invoicing." *See* Regiopytsa's RAQR at pages 32 through 33, RSQR at pages 15 through 17, and RSSQR at attachment 1. Based on our analysis of these sales, the Department has determined that material terms of sale are subject to change up until the merchandise is released for shipment, which occurs after the invoice date. Therefore, for these preliminary results, the Department finds that the shipment date is the appropriate date of sale for such sales. For the remainder of Regiopytsa's home market sales, we have preliminarily used invoice date as the date of sale as we have preliminarily found that materials terms of sale are subject to change up until the date upon which the invoice is issued. *See* Regiopytsa's Preliminary Analysis Memo for a further discussion of this issue.

With respect to Regiopytsa's U.S. sales, in its RSQR at page 33, Regiopytsa explained that there are, "generally no changes in the material terms of sale between the order date and the date of invoice." Regiopytsa also explained that in some instances, "such as when steel prices change substantially, a price increase or decrease will occur during this period," and that, "if there is a change in quantity or type of product ordered, the purchase order is cancelled and a new order is issued." *See* verification exhibit (VE) 16 ("Completeness") at pages 0375–0377 for an example of a cancelled sale; *see also* VE–4 ("Home Market Sales Process") at pages 0422 (the initial invoice) and 0429 (credit note adjusting price). Therefore, we preliminarily determine that invoice date is the appropriate date of sale for Regiopytsa's U.S. sales in this

administrative review because it best represents the date upon which the material terms were established.

Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter," as adjusted under sections 772(c) and (d).

Maquilacero

Maquilacero has classified all its U.S. sales as EP sales; *see* CQR at C–16. For purposes of these preliminary results, we accepted this classification and calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because CEP was not otherwise warranted. We calculated EP based on the packed price charged to the first unaffiliated U.S. customer. We made deductions for movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act, including foreign inland freight from the plant to the port of exportation, brokerage and handling expenses incurred in the home market, international freight and warehousing expenses, where appropriate.

Regiopytsa

Regiopytsa has classified all their U.S. sales as EP sales; *see* RCQR at C–14. For purposes of these preliminary results, we accepted this classification and calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because CEP was not otherwise warranted. We calculated EP based on the packed price charged to the first unaffiliated U.S. customer. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including inland freight (plant/warehouse to port of exportation), country of manufacture inland insurance, brokerage and handling expenses, and inland freight (warehouse to the unaffiliated customer), where appropriate.

Normal Value

A. Selection of Home Market

To determine whether there is a sufficient volume of sales of LWRPT in the home market to serve as a viable basis for calculating NV, we compared Maquilacero's and Regiopytsa's volume of home market sales of the foreign like product to the volume of each company's respective U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act.

Pursuant to section 773(a)(1)(B) of the Act, because both Maquilacero's and Regiopytsa's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for subject merchandise, we determined that the home market was viable for comparison purposes for both companies.

B. Affiliated Party Transactions and Arm's Length Test

Sales to affiliated customers in the home market not made at arm's length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. *See* section 773(f)(2) of the Act; *see also* 19 CFR 351.102(b). Consistent with 19 CFR 351.403(c) and (d) and agency practice, "the Department may calculate NV based on sales to affiliates if satisfied that the transactions were made at arm's length." *See China Steel Corp.* v. *United States,* 264 F. Supp. 2d 1339, 1365 (CIT 2003). To test whether the sales to affiliates were made at arm's length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all direct selling expenses, billing adjustments, discounts, rebates, movement charges, and packing. Where prices to the affiliated party are, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determine that the sales made to the affiliated party are at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade,* 67 FR 69186, 69194 (November 15, 2002).

Maquilacero

Maquilacero reported that it made sales in the home market to one affiliated reseller and to unaffiliated customers and reported the downstream sales from its affiliated reseller to the first unaffiliated customers. With respect to Maquilacero, we found that prices to its affiliate were, on average, within the 98 to 102 percent of the price of identical or comparable subject merchandise sold to unaffiliated parties. Therefore, we determined that all sales to the affiliated party were made at arm's-length; thus we included these sales in our analysis. *See* Maquilacero's Preliminary Analysis Memo for a further discussion of this issue.

Regiopytsa

Regiopytsa reported that it made sales of the foreign like product to two affiliated parties during the POR. One affiliate purchased the foreign like product for consumption, while the second affiliate resold the foreign like product and non-prime merchandise in the home market. *See* Regiopytsa's December 7, 2009, response at pages B–14 through B–15. We performed the arm's-length test on Regiopytsa's sales to affiliates and found that prices to its affiliates were, on average, within the 98 to 102 percent of the price of identical or comparable subject merchandise sold to unaffiliated parties. Therefore, we determined that all sales to the affiliated parties were made at arm's-length; thus we included these sales in our analysis. *See* Regiopytsa's Preliminary Analysis Memo for a further discussion of this issue.

C. Cost-Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POR. *See, e.g.,Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review,* 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada,* 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period). We recognize that possible distortions may result if we use our normal annual-average cost method during a period of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence using two primary factors: (1) The change in the cost of manufacturing (COM) recognized by the

respondent during the POR must be deemed significant; and (2) the record evidence must indicate that sales prices during the shorter averaging periods could be reasonably linked with the COP or CV during the same shorter averaging periods. *See, e.g.,Stainless Steel Sheet and Strip in Coils From Mexico; Final Results of Antidumping Duty Administrative Review,* 75 FR 6627 (February 10, 2010) (*SSSS from Mexico*), and accompanying Issues and Decision Memorandum at Comment 6 and *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review,* 73 FR 75398 (December 11, 2008), and accompanying Issues and Decision Memorandum at Comment 4 (*SSPC from Belgium*).

Regiopytsa provided pertinent information for control numbers with the five highest volumes sold in the comparison market and the United States over the POR in its June 11, 2010, response to the Department's RSDQR at exhibit 6 and Maquilacero provided the same information in its June 14, 2010 response to the Department's FDQR at exhibit 34.

1. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the highest cost and lowest costs quarter by COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-cost approach. *See SSPC from Belgium* at Comment 4. In the instant case, record evidence shows that Regiopytsa and Maquilacero experienced significant changes (*i.e.,* changes that exceeded 25 percent) between the highest cost and lowest cost quarterly COM divided by the lowest quarterly COM during the POR. This change in COM is attributable primarily to the price volatility for hot rolled steel coil used in the manufacture of LWRPT. Hot rolled steel coil is the major input consumed in the production of LWRPT. *See* "Cost of Production and CV Calculation Adjustment for the Preliminary Results—Regiomontana de Perfiles y Tubos S.A. de C.V." from Stephanie C. Arthur to Neal M. Halper, dated September 7, 2010 (Regiopytsa Cost Calculation Memorandum) at page 1 and "Cost of Production and CV Calculation Adjustment for the Preliminary Results—Maquilacero S.A. de C.V." from Frederick W. Mines to Neal M. Halper, dated September 7, 2010 (Maquilacero Cost Calculation Memorandum) at pages 1 and 2. We found that prices for hot rolled steel coil changed significantly throughout the POR and, as a result, directly affected the cost of the material inputs consumed by Regiopytsa and Maquilacero.[5] *See* Regiopytsa Cost Calculation Memorandum at attachment 3 and Maquilacero Cost Calculation Memorandum at attachment 1.

2. Linkage Between Cost and Sales Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR. The Department's definition of "linkage" does not require direct traceability between specific sales and their specific production costs but, rather, relies on whether there are elements that would indicate a reasonable correlation between the underlying costs and the final sales prices levied by the company. *See SSPC from Belgium* at Comment 4. These correlative elements may be measured and defined in a number of ways depending on the associated industry and the overall production and sales processes. To determine whether a reasonable correlation existed between the sales prices and their underlying costs during the POR, we compared weighted-average quarterly net sales prices to the corresponding quarterly COM for the five control numbers with the highest volume of sales in the comparison market and the five control numbers with the highest sales volume to the United States. After reviewing this information, we determined that sales prices and costs were generally trending in a consistent manner, and therefore, showed evidence of linkage. *See* Regiopytsa Cost Calculation Memorandum at attachments 1 and 2 and Maquilacero Cost Calculation Memorandum at attachments 3 and 4.

Because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices, we have preliminarily determined that a quarterly costing approach leads to more appropriate comparisons in our antidumping duty calculations for Regiopytsa and Maquilacero.

D. Cost of Production Analysis

Maquilacero

In the previous segment of this proceeding, the Department disregarded sales made by Maquilacero that were found to be below its cost of production (COP). *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Mexico,* 73 FR 5521 (January 30, 2008). Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that the respondent made sales of the foreign like product in the home market at prices below the COP within the meaning of section 773(b) of the Act, as below cost sales made by Maquilacero were disregarded in the most recently completed investigation. Accordingly, on October 16, 2009, the Department requested that Maquilacero respond to section D (Cost of Production/Constructed Value) of the Department's antidumping duty questionnaire.

Regiopytsa

Based on petitioners' cost allegation (*see* Cost Allegation Memo), the Department had reasonable grounds to believe or suspect that Regiopytsa had made below-cost sales of foreign like product. *See* section 773(b)(2)(A)(i) of the Act. Therefore, the Department initiated a cost investigation of Regiopytsa on February 19, 2010, and requested that Regiopytsa file a response to section D of the Department's antidumping duty questionnaire.

For Maquilacero and Regiopytsa, we calculated the COP on a product-specific basis, based on the sum of costs of materials and fabrication for the foreign like product plus amounts for general and administrative (G&A) expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

We relied on the COP information provided by Maquilacero and Regiopytsa except for the following adjustments:

Maquilacero

1. Using Maquilacero's hot rolled coil inventory movement data from the August 16, 2010, response, we measured the cost changes in terms of a percentage, to develop the direct material indices for each quarter. We used these indices to calculate an annual weighted-average material cost for the POR and then restate that annual average material cost to each respective quarter on an equivalent basis.

2. We made two adjustments to Maquilacero's G&A expense: (1) By offsetting project revenue against the G&A expense up to the amount of the expenses related to producing the project revenue which is included in the

[5] We also found that prices for cold rolled steel coil (a major input consumed to produce certain LWRPT) changed significantly throughout the POR and, as a result, directly affected the cost of the material inputs consumed by Regiopytsa. *See* Regiopytsa Cost Calculation Memorandum for further details.

reported costs, and (2) by including Corporacion Maquilacero S.A. de C.V.'s (Maquilacero's affiliate) net results. *See* Maquilacero Cost Calculation Memorandum.

Regiopytsa

1. Using Regiopytsa's inventory movement data for hot-rolled and cold-rolled coil we obtained during our verification of the company's cost response, we measured the cost changes throughout the period, in terms of a percentage, to develop the direct material indices for each quarter. We used these indices to calculate an indexed annual weighted-average material cost for the POR, and then restated that annual average material cost to each respective quarter on an equivalent basis.

2. We made an upward adjustment to Regiopytsa's reported COM to account for an un-reconciled cost difference.

3. We deducted certain freight-in expenses from Regiopytsa's reported direct materials costs because we discovered during our cost verification that these charges had been double-counted in the reported costs.

4. During the POR, Regiopytsa purchased hot-rolled steel coils from an affiliate. For each quarter, we have analyzed these transactions within the context of section 773(f)(2) of the Act (the "transactions disregarded" provision) and have made an adjustment to Regiopytsa's reported direct material costs to account for the difference between transfer and market price for these inputs.

5. We excluded the value of purchased scrap from Regiopytsa's calculation of its direct materials scrap offset ratio.

For further details regarding these adjustments for Maquilacero and Regiopytsa, *see* Maquilacero's and Regiopytsa's Cost Calculation Memos, which are on file in the CRU of the main Commerce Department building.

On a product-specific basis, we compared the adjusted weighted-average COP figures to the home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP. The prices were exclusive of any applicable movement charges, packing expenses, warranties, and indirect selling expenses. In determining whether to disregard home market sales made at prices below their COP and in accordance with sections 773(b)(2)(B), (C), and (D) of the Act, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time.

We found that, for certain products, more than 20 percent of respondents' home market sales were at prices below the COP and these below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not permit the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales of the same product as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

E. Price-to-Price Comparisons

Maquilacero

We calculated NV based on prices to unaffiliated and affiliated customers that passed the arm's length and cost tests, where appropriate. We accounted for billing adjustments, discounts, and rebates, where appropriate. We also made deductions, where applicable, for inland freight, insurance, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Act. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act. In particular, we made COS adjustments for imputed credit expenses, warranty expenses, and commissions. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act. For more information, *see* Maquilacero's Preliminary Analysis Memo.

Regiopytsa

We calculated NV based on prices to unaffiliated customers that passed the cost test. We accounted for billing adjustments, discounts, and rebates, where appropriate. We also made deductions, where applicable, for inland freight, insurance, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Act. We also made adjustments for differences in COS in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In particular, we made COS adjustments for warranty, commission, and certain direct selling expenses. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act. *See* Regiopytsa's Preliminary Analysis Memo for a detailed explanation of these adjustments.

Use of Adverse Facts Available

For the reasons discussed below, we determine that the use of adverse facts available is appropriate for the preliminary results with respect to certain unreported expenses incurred by Regiopytsa on U.S. sales and unreported sales in the U.S. market.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use facts otherwise available in reaching the applicable determination.

During verification, we discovered that certain U.S. sales had incurred unreported direct selling expenses. In light of this fact, we carefully examined all pre-selected and surprise U.S. sales in order to determine if any had these unreported direct selling expenses. While examining the documentation for the ten U.S. pre-selected and surprise sales, we found that some sales had certain direct selling expenses that were incurred by Regiopytsa but were not reported to the Department. Also during verification, company officials explained that in gathering the sales documentation for a U.S. surprise sale, Regiopytsa discovered that a sale, originally reported as subject merchandise in the U.S. sales file, was in fact non-subject merchandise. As a result of this discovery, Regiopytsa conducted a manual review of the U.S. sales file in order to determine whether or not other sales were improperly reported as subject or non-subject. Company officials explained that as a result of this manual review, Regiopytsa uncovered additional sales which were reported as subject merchandise but were in fact non-subject in nature. Additionally, company officials explained that one sale was subject merchandise, but was originally considered non-subject merchandise, was inadvertently not reported to the Department. *See* Sales Verification Report for additional details.

Pursuant to section 776(a)(2) of the Act, because Regiopytsa failed to report certain direct selling expenses incurred on U.S. sales and did not correctly identify all U.S. sales of subject merchandise prior to the start of verification (*i.e.,* before the deadline to

submit new factual information) it is appropriate to use facts available.

B. Application of Adverse Inference for Facts Available

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available. In addition, the *Statement of Administrative Action accompanying the Uruguay Round Agreements Act,* H.R. Rep. 103–316, Vol. 1, 103d Cong. (1994) (*SAA*), explains that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See SAA* at 870. It is the Department's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation. *See, e.g., Id.*

Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27340 (May 19, 1997) (*Preamble*). We find that, by failing to report the expenses associated with certain U.S. sales prior to verification, Regiopytsa failed to cooperate to the best of its ability. In addition, with regard to Regiopytsa's failure to report *all* EP sales of LWRPT to the United States during the POR, we find that Regiopytsa failed to cooperate by not acting to the best of its ability to comply with a request for information. In particular, in section A of the Department's antidumping duty questionnaire, dated October 16, 2009, we explicitly requested that Regiopytsa report the total quantity and value of the merchandise, under review, it sold during the POR in (or to) the United States. Therefore, the Department has preliminarily determined that in selecting from among the facts otherwise available, an adverse inference is warranted.

The Federal Circuit has stated that, "{w}hile the * * * adverse facts available * * * standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping." *See Nippon Steel Corporation* v. *United States,* 337 F.3d 1373, 1382 (Fed. Cir. 2003). The AFA standard, moreover, assumes that because respondents are in control of their own information, they are required to take reasonable steps to present information that reflects its experience for reporting purposes before the Department. Therefore, we find it appropriate to use an inference that is adverse to the company's interests in selecting from among the facts otherwise available.

As partial adverse facts available, and to account for the unreported direct selling expenses, we applied the highest, verified per MT unreported direct selling expense to all of Regiopysta's U.S. sales (except for the sales of subject merchandise reviewed during verification). Also as partial adverse facts available, and in order to account for an unreported U.S. sale of subject merchandise, we applied the highest calculated margin to the quantity and value of that sale.[6] Moreover, because we are relying on the company's own information, there is no need to corroborate the chosen facts available under section 776(c) of the Act. For a detailed discussion on the Department's application of adverse facts available, *see* the "Issues" section of Regiopytsa's Preliminary Analysis Memorandum.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. *See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France,* 68 FR 47049, 47055 (August 7, 2003), unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From France,* 68 FR 69379 (December 12, 2003). However, the Federal Reserve Bank does not track or publish exchange rates for the Mexican peso. Therefore, pursuant to section 773A(a) of the Act, we made currency conversions from Mexican pesos to U.S. dollars based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service. Factiva publishes exchange rates for Monday through Friday only. We used the rate of exchange on the most recent Friday for conversion dates involving Saturday through Sunday where necessary. *See* Import Administration Web site at: *http://ia.ita.doc.gov/exchange/index.html*.

Rates for Non-Selected Companies

Based on our analysis of the responses and our available resources, we selected certain companies for individual examination of their sales of the subject merchandise to the United States during the POR as permitted under section 777A(c)(2) of the Act. For responding companies under review of the antidumping duty order on LWRPT from Mexico that were not individually examined, we have assigned the simple-average margin of the two selected respondents, *i.e.,* Maquilacero and Regiopytsa, in this review.[7] Therefore, we have applied, for these preliminary results, the rate of 16.05 percent to the firms not individually examined in this review.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margin exists for the period January 30, 2008, through July 31, 2009:

Manufacturer/Exporter	Weighted-average margin (percent)
Maquilacero S.A. de C.V.	22.62.
Regiomontana de Perfiles y Tubos S.A. de C.V.	9.48.
Industrias Monterrey S.A. de C.V.	16.05.
Perfiles y Herrajes LM S.A. de C.V.	16.05.
Galvak S.A. de C.V.	16.05.
Nacional de Acero S.A. de C.V.	16.05.
Productos Laminados de Monterrey S.A. de C.V.	16.05.
Ternium Mexico S.A. de C.V.[8]	16.05.

Disclosure and Public Comments

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d).

[6] We note that in a letter dated August 31, 2010, we requested that Regiopytsa provide us with a revised database (inclusive of revisions that occurred as a result of minor corrections and findings during verification). The remaining sales (*i.e.,* those reported as subject when they were non-subject) were removed from consideration for these preliminary results.

[7] Because Regiopytsa reported public, indexed quantity and value sales information (while Maquilacero reported public, ranged quantity and value sales information), we were unable to perform the analysis articulated in *AFBs Final* in this review. *See AFBs Final,* 75 FR at 53662–3.

[8] On August 18, 2009, the Department determined that Ternium is the successor-in-interest to Hylsa S.A. de C.V. and should be treated as such for antidumping duty cash deposit purposes. *See Final Results of Antidumping Duty Changed Circumstances Review: Light-Walled Rectangular Pipe and Tube From Mexico,* 74 FR 41680 (August 18, 2009).

Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttal briefs limited to issues raised in the case briefs may be filed no later than five days after the time limit for submitting the case briefs. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such argument or at a hearing, within 120 days of publication of these preliminary results, unless extended. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Duty Assessment

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer or customer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. *See* 19 CFR 351.212(b). Where the duty assessment rates are above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer in accordance with the requirements set forth in 19 CFR 351.106(c)(2). The Department will instruct CBP to assess antidumping duties at the lesser of the cash deposit rate in effect on the date of entry or the final assessment rate, for entries during the period January 30, 2008, through July 27, 2008. *See* section 703(d) of the Act. Pursuant to section 703(d) of the Act, suspension of liquidation was discontinued on July 28, 2008, and no antidumping duties will be assessed on entries made on or after July 28, 2008, through August 3, 2008. For entries made on or after August 4, 2008, through July 31, 2009, if the amount of duties that would be assessed by applying importer or customer specific assessment rates determined herein ("final duties") is different from the amount of duties that would be assessed by applying the estimated duties rate applied to these entries ("provisional duties"), the Secretary will instruct the Customs Service to disregard the difference to the extent that the provisional duties are less than the final duties, and to assess antidumping or countervailing duties at the assessment rate if the provisional duties exceed the final duties. *See* 19 CFR 351.212(d). In accordance with 19 CFR 356.8(a), the Department intends to issue assessment instructions to CBP on or after 41 days following the publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these preliminary results for which the reviewed company did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company or company(ies) involved in the transaction.

Cash Deposit Requirements

Furthermore, the following cash deposit requirements will be effective upon completion of the final results of this administrative review, for all shipments of LWRPT from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the companies covered by this review (*i.e.,* Maquilacero, Regiopytsa, IMSA, Perfiles y Herrajes, Galvak, Hylsa, Nacional, Prolamsa, and Ternium) will be the rate established in the final results of this review, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) 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 the all-others rate of 3.76 percent, which is the all-others rate established in the LTFV investigation. *See Order* at 73 FR 45405. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 7, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–22777 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–916]

Laminated Woven Sacks From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* September 13, 2010.

SUMMARY: The Department of Commerce ("the Department") is conducting the first administrative review of the antidumping duty order on laminated woven sacks ("woven sacks") from the People's Republic of China ("PRC") for the period of review ("POR") January 31, 2008, through July 31, 2009. The Department has preliminarily determined that sales have been made below normal value ("NV") by the respondent. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue

the final results of this review no later than 120 days from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–0182.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2008, the Department published in the **Federal Register** the antidumping duty order on woven sacks from the PRC.[1] On August 3, 2009, the Department published a notice of opportunity to request an administrative review of the *Woven Sacks Order.*[2]

The Department received a timely request for an administrative review of the *Woven Sacks Order* from Zibo Aifudi Plastic Packaging Co., Ltd. ("Zibo Aifudi") and Changshu Xinsheng Bags Producing Company, Ltd. ("Changshu Xinsheng Bags") on August 26, 2009, and August 31, 2009, respectively, in accordance with section 751(a) of Tariff Act of 1930, as amended (the "Act"). On September 22, 2009, the Department published in the **Federal Register** a notice of the initiation of an administrative review of the *Woven Sacks Order.*[3] The review was initiated with respect to both Zibo Aifudi and Changshu Xinsheng Bags. On November 6, 2009, Changshu Xinsheng Bags submitted to the Department a timely letter requesting a withdrawal from the ongoing administrative review. On December 17, 2009, the Department rescinded the review with respect to Changshu Xinsheng Bags.[4]

The Department issued supplemental questionnaires to Zibo Aifudi from January to June 2010. The Department received responses to its supplemental questionnaires from Zibo Aifudi from January to July 2010. From January to July 2010, Petitioners[5] submitted comments to the Department regarding the submissions and/or responses of Zibo Aifudi.

On March 3, 2010, the Department released a letter to interested parties which listed potential surrogate countries and invited interested parties to comment on surrogate country and surrogate value ("SV") selection. Between March and July 2010, Petitioners and Zibo Aifudi submitted publicly available SV information, comments, and rebuttal comments on the selection of a surrogate country and SVs. On July 9, 2010, the Department requested additional information and analysis regarding the three financial statements on the record from Petitioners and Zibo Aifudi. For a discussion of the selection of the surrogate country, *see* "Surrogate Country" section below.

On April 20, 2010, and August 16, 2010, pursuant to section 751(a)(3)(A) of the Act, the Department extended the time period for completing the preliminary results by 90 days and 30 days, respectively.[6]

On May 25, 2010, the Department preliminarily determined that the PRC is the country of origin of woven sacks produced in the PRC from imported fabric. As a result, the Department preliminarily determined that the woven sacks produced in the PRC by Zibo Aifudi from imported fabric and imported by Zibo Aifudi into the United States are within the scope of the order.[7]

On August 6, 2010, the Department issued a supplemental questionnaire to Zibo Aifudi regarding its consumption of imported woven fabric. On August 18, 2010, Zibo Aifudi responded to the Department's supplemental questionnaire and provided an explanation, with supporting documentation, of its consumption of imported woven fabric. *See* the Factor Valuation Methodology section below for additional information.

Scope of the Order

The merchandise subject to the order is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene ("BOPP") or to an exterior ply of paper that is suitable for high quality print graphics;[8] printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

---

[1] *See Notice of Antidumping Duty Order: Laminated Woven Sacks From the People's Republic of China,* 73 FR 45941 (August 7, 2008) ("*Woven Sacks Order*").

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 74 FR 38397 (August 3, 2009).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224 (September 22, 2009) ("*Initiation Notice*").

[4] *See Laminated Woven Sacks from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review,* 74 FR 66954 (December 17, 2009).

[5] Petitioners are the Laminated Woven Sacks Committee and its individual members, Coating Excellence International, LLC and Polytex Fibers Corporation.

[6] *See Laminated Woven Sacks from the People's Republic of China: Extension of the Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 75 FR 20564 (April 20, 2010); *see Laminated Woven Sacks from the People's Republic of China: Extension of the Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 75 FR 49888 (August 16, 2010).

[7] *See* Memorandum to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, from Zhulieta Willbrand, International Trade Analyst, AD/CVD Operations, Office 4, "Preliminary Decision Regarding the Country of Origin of Laminated Woven Sacks Exported by Zibo Aifudi Plastic Packaging Co., Ltd.,—Laminated Woven Sacks from the People's Republic of China" (May 25, 2010).

[8] "Paper suitable for high quality print graphics," as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy ("NME") country.[9] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this review. Therefore, the Department continues to treat the PRC as an NME country for purposes of these preliminary results.

Surrogate Country

When the Department reviews imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOPs") valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the SVs that the Department has used in this review are discussed under the "Normal Value" section below.

In this review, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development.[10] Once the countries that are economically comparable to the PRC have been identified, the Department selects an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOPs are both available and reliable.

The Department has preliminarily determined that it is appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (1) It is at a similar level of economic development to the PRC pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) the Department has reliable data from India that it can use to value the FOPs.[11] Thus, the Department calculated NV using Indian prices when available and appropriate to value the FOPs of Zibo Aifudi. The Department obtained and relied upon publicly available information wherever possible.[12]

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly-available information to value FOPs until 20 days after the date of publication of the preliminary results.[13]

Separate Rates

In proceedings involving NME countries, the Department holds a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under the test announced in the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

The mandatory respondent, Zibo Aifudi, provided evidence that it is a joint venture between PRC and U.S. companies. The Department has analyzed whether Zibo Aifudi has demonstrated the absence of *de jure* and *de facto* governmental control over its export activities.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export license; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[14] The evidence provided by Zibo Aifudi supports a preliminary finding that all of the above criteria have been satisfied.[15]

Specifically, the evidence provided by Zibo Aifudi supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Chinese companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.[16]

b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in

[9] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[10] *See* Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Robert Bolling, Program Manager, AD/CVD Operations, Office 4, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Laminated Woven Sacks from the People's Republic of China" (January 25, 2010).

[11] Petitioners submitted surrogate country information and recommended India as the surrogate country. *See* Petitioners' March 12, 2010 surrogate country comments.

[12] *See* Memorandum to the File from Brandon Farlander, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Administrative Review of Laminated Woven Sacks from the People's Republic of China: Surrogate Value Memorandum," (September 3, 2010) ("Surrogate Value Memorandum").

[13] In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

[14] *See Sparklers,* 56 FR at 20589.

[15] *See* Zibo Aifudi's Section A response, dated October 26, 2009, at 4–7.

[16] *Id.*

making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[17] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The evidence provided by Zibo Aifudi supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that the company: (1) Set its own export prices independent of the government and without the approval of a government authority; (2) has the authority to negotiate and sign contracts and other agreements; (3) maintains autonomy from the government in making decisions regarding the selection of management; and (4) retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[18]

Therefore, the evidence placed on the record of this review by Zibo Aifudi demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide.* Accordingly, the Department has preliminarily granted Zibo Aifudi separate rate status.[19]

Fair Value Comparison

To determine whether sales of woven sacks to the United States by Zibo Aifudi were made at less than fair value, the Department compared export price ("EP") and constructed export price ("CEP") to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice.

U.S. Price

In accordance with section 772(a) of the Act, the Department used EP as the basis for U.S. price for Zibo Aifudi's sales where the first sale to unaffiliated purchasers was made prior to importation and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, the Department calculated EP for Zibo Aifudi by deducting the following expenses from the starting price charged to the first unaffiliated customer in the United States: Foreign inland freight from the plant to the port of exportation and foreign brokerage and handling. Additionally, for the expenses that were either provided by an NME vendor or paid for using an NME currency, the Department based the expenses on SVs, as appropriate. For details regarding our EP calculations, *see* Memorandum from Brandon Farlander, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Administrative Review of Laminated Woven Sacks from the People's Republic of China: Preliminary Analysis Memorandum for Zibo Aifudi Plastic Packaging Co., Ltd." (September 3, 2010) ("Zibo Aifudi Analysis Memo").

In accordance with section 772(b) of the Act, the Department used CEP as the basis for U.S. price for Zibo Aifudi's sales where Zibo Aifudi first sold subject merchandise to its affiliated companies in the United States (AMS Associates, Inc. (d.b.a. Shapiro Packing, Inc.) or Excel Packaging, LLC), which in turn sold subject merchandise to unaffiliated U.S. customers. In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. The Department calculated CEP for Zibo Aifudi based on delivered prices to unaffiliated purchasers in the United States and made deductions, where applicable, from the U.S. sales price for movement expenses and appropriate selling adjustments, such as early payment discounts, in accordance with section 772(c)(2)(A) of the Act. These movement expenses included foreign inland freight from the plant to the port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. customs duty, U.S. brokerage, and U.S. inland freight from port to the U.S. customer. In accordance with section 772(d)(1) of the Act, the Department deducted billing adjustments, early payment discounts, credit expenses and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. Also, the Department deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. Additionally, for the expenses that were either provided by an NME vendor or paid for using an NME currency, the Department based the expenses on SVs, as appropriate. For details regarding the CEP calculation, *see* Zibo Aifudi Analysis Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[20]

As the basis for NV, Zibo Aifudi provided FOPs used in the production of woven sacks. Consistent with section 773(c)(1)(B) of the Act, it is the Department's practice to value the FOPs that a respondent uses to produce woven sacks.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by Zibo Aifudi. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available Indian SVs. In selecting the SVs, the Department considered the quality, specificity, and contemporaneity of the data.[21] As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is

[17] *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

[18] *See* Zibo Aifudi's Section A response, dated October 26, 2009, at 7–10.

[19] *See* "Preliminary Results of Review" section below.

[20] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China,* 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006).

[21] *See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review,* 67 FR 72139 (December 4, 2002) and accompanying Issues and Decision Memorandum at Comment 6; *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China,* 66 FR 31204 (June 11, 2001) and accompanying Issues and Decision Memorandum at Comment 5.

in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). A detailed description of all SVs used for Zibo Aifudi can be found in the Surrogate Value Memorandum, at Exhibit 1.

Zibo Aifudi reported that several of its raw material inputs (*i.e.,* color ink and woven fabric) were sourced from market-economy countries and paid for in market-economy currencies. Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from a market-economy supplier in meaningful quantities (*i.e.,* not insignificant quantities), the Department normally will use the actual price paid by the respondent for those inputs.[22] Because information reported by Zibo Aifudi demonstrates that it purchased significant quantities (*i.e.,* 33 percent or more) of colored ink and woven fabric from market-economy suppliers, the Department used Zibo Aifudi's actual market-economy purchase prices of colored ink and woven fabric to value its FOPs for this input.[23] Where appropriate, freight expenses were added to the market-economy prices of this input. When Zibo Aifudi made market economy colored ink and woven fabric purchases that may have been dumped or subsidized, were not *bona fide,* or were otherwise not acceptable for use in a dumping calculation, the Department excluded them from the numerator of the ratio to ensure a fair determination of whether valid market-economy purchases meet the 33 percent threshold.[24]

In past cases, it has been the Department's practice to value various FOPs using import statistics of the primary selected surrogate country from World Trade Atlas ("WTA"), as published by Global Trade Information Services ("GTIS").[25] However, in a recent case, the *OCTG Final,* the Department explained, based on discussions with GTIS, that the Indian import data obtained from the WTA, as published by GTIS, began identifying the original reporting currency for India as the U.S. Dollar rather than the Indian Rupee, as was previously reported by GTIS for Indian import data.[26] While the original India import data[27] obtained by GTIS is denominated and published in Indian Rupees, in the *OCTG Final,* the Department noted that GTIS made a decision to change the original reporting currency for Indian data from the Indian Rupee to the U.S. Dollar in order to reduce the loss of the number of significant digits when obtaining data through the WTA software. Additionally, in the *OCTG Final,* the Department also noted that subsequently, GTIS restored the ability to view Indian Rupee values in the WTA software for Indian import data. However, because this data was twice converted[28], it was found that this data would not correspond to the original India data based on the WTA software's capability to only handle a limited number of significant digits in each conversion calculation.

Because of the conversion and rounding problems in the data reported by the WTA, the Department will now obtain import statistics from Global Trade Atlas ("GTA"), as published by GTIS, for valuing various FOPs. The data reported in the GTA software reports import statistics, such as from India, in the original reporting currency and thus this data corresponds to the original currency value reported by each country. Additionally, the data reported in the GTA software is reported to the nearest digit and thus there is not a loss of data by rounding, as there is with the data reported by the WTA software. Consequently the import statistics we obtain from GTA are in the original reporting currency of the country from which the data are obtained and have the same level of accuracy as the original data released.

The Department used data from the Indian import statistics in the GTA and other publicly available Indian sources in order to calculate SVs for Zibo Aifudi's FOPs (*i.e.,* direct materials, energy, packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.[29] The record shows that data in the GTA Indian import statistics, as well as those from the other Indian sources, are contemporaneous with the POR, product-specific, and tax-exclusive.[30]

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.[31] In this regard, the Department has previously found that it is appropriate to disregard such prices from Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[32] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from these three countries in calculating the Indian import-based SVs.

Additionally, the Department disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from

[22] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27366 (May 19, 1997).

[23] *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717 (October 19, 2006) ("*Antidumping Methodologies*").

[24] *See Antidumping Methodologies,* 71 FR at 61717–18.

[25] *See e.g., Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review,* 74 FR 50946, 50950 (October 2, 2009).

[26] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances, and Final Determination of Targeted Dumping,* 75 FR 20335 (April 19, 2010) and accompanying Issues and Decision Memorandum at Comment 4 ("*OCTG Final*").

[27] GTIS obtains data on imports into India directly from the Ministry of Commerce, Government of India.

[28] Converted from Indian Rupee to U.S. Dollar, then converted from U.S. Dollar to Indian Rupee.

[29] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[30] *See* Surrogate Value Memorandum at Exhibit 1.

[31] Omnibus Trade and Competitiveness Act of 1988, Conf. Report To Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

[32] *See e.g., Carbazole Violet Pigment 23 From India: Final Results of the Expedited Five-Year (Sunset) Review of the Countervailing Duty Order,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4–5; *Certain Cut-to-Length Carbon-Quality Steel Plate From Indonesia: Final Results of Expedited Sunset Review,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at 17, 19–20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at 23.

either an NME country or a country with general export subsidies.[33]

Petitioners raised concerns regarding Zibo Aifudi's FOPs for the production of woven sacks from imported woven fabric and we sought additional information from Zibo Aifudi regarding its production of woven sacks from imported woven fabric. At this time, we are still examining this matter and may issue additional supplemental questions regarding Zibo Aifudi's material consumption and production process for woven sacks produced from imported woven fabric. For the preliminary results, we have determined to use Zibo Aifudi's reported FOP data, specifically Zibo Aifudi's FOPs used to produce woven sacks from imported woven fabric, to calculate its margin. *See* Zibo Aifudi Analysis Memo. However, we intend to continue to analyze this issue for the final results.

For direct, indirect, and packing labor, pursuant to a recent decision by the Court of Appeals for the Federal Circuit, we are no longer using the regression based methodology to value labor.[34] Rather, we have calculated an hourly wage rate to use in valuing each respondent's reported labor input by averaging available data for earnings and/or wages in countries that are economically comparable to the PRC, and that are significant producers of comparable merchandise. Because this wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by the respondents.[35]

The Department valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm.* The logistics section of this Web site contains inland freight truck rates between many large Indian cities. The value is contemporaneous with the POR.[36]

The Department valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled "Electricity Tariff & Duty and Average Rates of Electricity Supply in India," dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.[37]

We valued brokerage and handling expenses using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean freight in India that is published in *Doing Business 2009: India,* published by the World Bank. Because these data were current throughout the POR, we did not inflate the value for brokerage and handling.[38]

To value factory overhead, selling, general, and administrative expenses, and profit, the Department used the factory overhead, selling, general and administrative expenses, and profit data from two Indian companies, KG Petrochem Limited, and Emmbi Polyarns Limited, producers of merchandise comparable to the subject merchandise, for the fiscal year April 1, 2008, through March 31, 2009.[39] The Department did not rely on the financial statements of Deccan Polypacks Limited ("Deccan Polypacks") because the record indicates that during this period, Deccan Polypacks received subsidies the Department has previously determined to be countervailable. Consistent with Department practice, we do not use financial statements of a company that we have reason to believe or suspect may have received subsidies, where there are other sufficient reliable and representative data on the record for purposes of calculating the surrogate financial ratios, because the financial statements of companies receiving actionable subsidies are less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization.[40] In this case, Deccan Polypacks' 2008–2009 financial statements indicate that Deccan Polypacks received benefits under the Advance License Scheme.[41] India's Advance License Scheme has been found by the Department to provide a countervailable subsidy.[42]

Currency Conversion

The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the IA Web site at *http://ia.ita.doc.gov/exchange/index.html.*

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists:

Exporter/producer	Weighted-average percent margin
Zibo Aifudi Plastic Packaging Co., Ltd	0.68

Disclosure

The Department will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.[43] Parties that submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. Rebuttal comments must be limited to the issues raised in the written comments and may be filed no later than five days after the deadline for filing case briefs.[44] Parties submitting written comments or rebuttals are requested to provide the Department

[33] *See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039 (September 24, 2008).

[34] *See Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372–73 (CAFC 2010).

[35] *See* Surrogate Value Memorandum at Exhibit 2.

[36] *See* Surrogate Value Memorandum at Exhibit 4.

[37] *See* Surrogate Value Memorandum at Exhibit 3.

[38] *See* Surrogate Value Memorandum at Exhibit 5.

[39] *See* Surrogate Value Memorandum at Exhibit 6.

[40] *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 17A; *Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 52049 (September 12, 2007) and accompanying Issues and Decision Memorandum at Comment 2 (citing *Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Final Results and Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 19174 (April 17, 2007)).

[41] *See* Annual Report 2008–2009, Deccan Polypacks, at 35 of Attachment 2 of Zibo Aifudi's March 31, 2010, surrogate value submission.

[42] *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 10545 (March 11, 2009) and accompanying Issues and Decision Memorandum at Comment 1.

[43] *See* 19 CFR 351.309(c)(1)(ii).

[44] *See* 19 CFR 351.309(d).

with an additional copy of those comments on disk. Any interested party may request a hearing within 30 days of publication of these preliminary results.[45] Any hearing, if requested, ordinarily will be held two days after the scheduled date for submission of rebuttal briefs.[46] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of the administrative review, which will include the results of its analysis of issues raised in the briefs, within 120 days of publication of these preliminary results, in accordance with 19 CFR 351.213(h)(1) unless the time limit is extended.

Assessment Rates

Pursuant to 19 CFR 351.212, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, in accordance with 19 CFR 351.212(b)(1), the Department calculated exporter/importer (or customer)-specific assessment rates for merchandise subject to this review. Where the respondent has reported reliable entered values, the Department calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR. *See* 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, the Department calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to liquidate that importer's (or customer's) entries of subject merchandise without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review. The Department intends to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate in the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(1) and (a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 91.73 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

This determination is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: September 3, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–22778 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–DS–P

[45] *See* 19 CFR 351.310(c).

[46] *See* 19 CFR 351.310(d).

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62864; File No. 4–612]

Joint Public Roundtable on Swap Execution Facilities and Security-Based Swap Execution Facilities

AGENCY: Commodity Futures Trading Commission ("CFTC") and Securities and Exchange Commission ("SEC") (each, an "Agency," and collectively, the "Agencies").

ACTION: Notice of roundtable discussion; request for comment.

SUMMARY: On September 15, 2010, commencing at 9 a.m. and ending at 12:30 p.m., staff of the Agencies will hold a public roundtable discussion at which invited participants will discuss swap execution facilities and security-based swap execution facilities in the context of certain authority that Sections 733 and 763 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") granted to the Agencies respectively. The discussion will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen by telephone. Call-in participants should be prepared to provide their first name, last name, and affiliation. The information for the conference call is set forth below.

- US/Canada Toll-Free: 877–732–6422
- Conference ID: 7772

A transcript of the public roundtable discussion will be published on the SEC's mandatory exchange trading and swap execution facilities rulemaking page at *http://www.sec.gov/spotlight/regreformcomments.shtml.* The transcript also will be available by a link on the CFTC's SEF Registration Requirements and Core Principle Rulemaking, Interpretation & Guidance Web page at *http://www.cftc.gov/LawRegulation/OTCDerivatives/otc_rules.html.* The roundtable discussion will take place in the Auditorium (Room L–002) at the SEC Headquarters located at 100 F Street, NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: the CFTC's Office of Public Affairs at (202)

418–5080 or the SEC's Office of Public Affairs at (202) 551–4120.

SUPPLEMENTARY INFORMATION: The roundtable discussion will take place on Wednesday, September 15, 2010, commencing at 9 a.m. and ending at 12:30 p.m. Commenters are also encouraged to submit views on swap execution facilities and security-based swap execution facilities that would help inform the discussion at the roundtable. Members of the public who wish to submit comments may do so via:

- paper submission to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, or Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; or
- by e-mail to *SEFRules@CFTC.gov;* and/or by e-mail to *rule-comments@sec.gov* or through the comment form available at: *http://www.sec.gov/rules/other.shtml.*

All submissions will be reviewed jointly by the Agencies. All comments must be in English or be accompanied by an English translation. All submissions provided to either Agency in any electronic form or on paper will be published on the website of the respective Agency, withoutreview and without removal of personally identifying information. Please submit only information that you wish to make publicly available.

By the Securities and Exchange Commission.

Dated: September 8, 2010.

Elizabeth M. Murphy,

Secretary.

By the Commodity Futures Trading Commission.

Dated: September 8, 2010.

David A. Stawick,

Secretary .

[FR Doc. 2010–22725 Filed 9–10–10; 8:45 am]

BILLING CODE 6351–01–P; –8010–01–P

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62863; File No. 4–611]

Joint Public Roundtable To Discuss Data for Swaps and Security-Based Swaps, Swap Data Repositories, Security-Based Swap Data Repositories, and Real-Time Public Reporting

AGENCY: Commodity Futures Trading Commission ("CFTC") and Securities and Exchange Commission ("SEC") (each, an "Agency," and collectively, the "Agencies").

ACTION: Notice of roundtable discussion; request for comment.

SUMMARY: On September 14, 2010, commencing at 8:45 a.m. and ending at 5:30 p.m., staff of the Agencies will hold a public roundtable discussion at which invited participants will discuss data for swaps and security-based swaps, swap data repositories, security-based swap data repositories, and real-time public reporting in the context of certain authority that Sections 727, 728, and 763 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") granted to the Agencies respectively. The discussion will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen by telephone. Call-in participants should be prepared to provide their first name, last name, and affiliation. The information for the conference call is set forth below.

- *US/Canada Toll-Free:* (866) 312–4390.
- *International Toll:* (404) 537–3379.
- *Conference ID:* 98801653.
- *A transcript of the public roundtable discussion will be published on the following CFTC pages:* Swap Data Repositories Registration Standards and Core Principle Rulemaking, Interpretation & Guidance; Data Recordkeeping & Reporting Requirements; and Real Time Reporting, available at *http://www.cftc.gov/LawRegulation/OTCderivatives/otc_rules.html.*

The roundtable discussion will take place in Lobby Level Hearing Room (Room 1000) at the CFTC's headquarters at Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: The CFTC's Office of Public Affairs at (202) 418–5080, or the SEC's Office of Public Affairs at (202) 551–4120.

SUPPLEMENTARY INFORMATION: The roundtable discussion will take place on Tuesday, September 14, 2010, commencing at 8:45 a.m. and ending at 5:30 p.m. Commenters are encouraged to submit views on data for swaps and security-based swaps, swap data repositories, security-based swap data repositories, and real-time public reporting that would help inform the discussion at the roundtable. Members of the public who wish to submit their views on these topics may do so via:

- Paper submission to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, or Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; or
- Electronic submission to the e-mail address provided on the CFTC's Swap Data Repositories Registration Standards and Core Principle Rulemaking, Interpretation & Guidance page, Data Recordkeeping & Reporting Requirements page, and Real Time Reporting page, and/or by e-mail to *rule-comments@sec.gov* or through the comment form available at *http://www.sec.gov/rules/other.shtml.* All submissions will be reviewed jointly by the Agencies. All comments must be in English or be accompanied by an English translation. All submissions provided to either Agency in any electronic form or on paper will be published on the Web site of the respective Agency, without review and without removal of personally identifying information. Please submit only information that you wish to make publicly available.

By the Securities and Exchange Commission.

Dated: September 8, 2010.

Elizabeth M. Murphy,

Secretary.

By the Commodity Futures Trading Commission.

Dated: September 8, 2010.

David A. Stawick,

Secretary.

[FR Doc. 2010–22727 Filed 9–10–10; 8:45 am]

BILLING CODE 6351–01–P; 8010–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary: Notification of an Open Meeting of the National Defense University Board of Visitors (BOV)

AGENCY: National Defense University, DoD.

ACTION: Notice of open meeting.

SUMMARY: The National Defense University (NDU), Designated Federal Officer, has scheduled a meeting of the Board of Visitors for November 4 and 5, 2010, in Washington, DC. The National Defense University Board of Visitors is a Federal Advisory Board. The Board meets twice a year in proceedings that are open to the public.

DATES: The meeting will be held on November 4 (from 11:30 a.m. to 5 p.m.) and November 5, 2010 (from 8 a.m. to 12:30 p.m.).

ADDRESSES: The meeting will be held at Marshall Hall, Building 62, Room 155, the National Defense University, 300 5th Avenue, SW., Fort McNair, Washington, DC 20319–5066.

FOR FURTHER INFORMATION CONTACT: The point of contact for this notice is Ms. Dolores Hodge at (202) 685–0082, Fax (202) 685–7707 or *HodgeD@ndu.edu.*

SUPPLEMENTARY INFORMATION: The future agenda will include discussion on Defense transformation, faculty development, facilities, information technology, curriculum development, post 9/11 initiatives as well as other operational issues and areas of interest affecting the day-to-day operations of the National Defense University and its components. The meeting is open to the public; limited space made available for observers will be allocated on a first come, first served basis. Written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by fax or e-mail to the point of contact person listed under **FOR FURTHER INFORMATION CONTACT**. Include in the Subject Line: "Comment/Statement to the NDU BOV."

Dated: September 8, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–22754 Filed 9–10–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0120]

Privacy Act of 1974; System of Records

AGENCY: Department of Defense (DoD).

ACTION: Notice to delete a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to delete a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 13, 2010, unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, Room 3C843 Pentagon, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 8, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION: DWHS P47.

SYSTEM NAME:

OSD Military Personnel Files (October 6, 2006; 71 FR 59092).

REASON:

The OSD Military Personnel Files (WHS P47) will be deleted. The system can be covered by the System of Record Notices from the services: Army A0680 31a AHRC, Officer Personnel Management Information System (OPMIS); Army A0680 31b AHRC, Enlisted Personnel Management Information System (EPMIS); Air Force F036 AFPC C, Indebtedness, Nonsupport Paternity; Navy N01070–3, Navy Military Personnel Records System; Marines M01040–3, Marine Corps Manpower Management Information System Records.

[FR Doc. 2010–22755 Filed 9–10–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant Field of Use Exclusive License to U.S. Government-Owned Patents

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209(e), and 37 CFR 404.7 (a)(1)(i) and 404.7(b)(1)(i), announcement is made of the intent to grant a field of use exclusive, revocable license for the field of prevention and/or therapeutic treatment of vaccinia virus infections or other orthopoxvirus infections to the inventions claimed in U.S. Patent No. 6,451,309 entitled "Prophylactic and Therapeutic Monoclonal Antibodies," issued September 17, 2002, and U.S. Patent No. 6,620,412 entitled "Prophylactic and Therapeutic Monoclonal Antibodies," issued September 16, 2003, which is a continuation of U.S. Patent No. 6,451,309, and related foreign patents and patent applications (PCT/US2001/04520) to Biofactura, Inc., with its principal place of business at 9430 Key West Avenue, Suite 125, Rockville, MD 20850–6345.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to the grant of this license can file written objections along with supporting evidence, if any, within 15 days from the date of this publication. Written objections are to be

filed with the Command Judge Advocate (*see* **ADDRESSES**).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2010–22707 Filed 9–10–10; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary: Defense Science Board (DSB) Task Force on the Survivability of DoD Systems and Assets to Electromagnetic Pulse (EMP) and Other Nuclear Weapons Effects

AGENCY: Defense Threat Reduction Agency, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics); DoD

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces that the Defense Science Board (DSB) Task Force on the Survivability of DoD Systems and Assets to Electromagnetic Pulse (EMP) and other Nuclear Weapons Effects (hereafter referred to as the Task Force) will meet October 12–13, 2010 in Lorton, VA.

DATES: The meeting will be held from 8:30 a.m. to 5 p.m. on Tuesday, October 12 and Wednesday, October 13, 2010.

ADDRESSES: The meeting will be held at TASC, Inc., 8211 Terminal Road, Suite 1000, Room 111, Lorton, VA 22079–1421.

FOR FURTHER INFORMATION CONTACT: Mr. John Franco, Defense Threat Reduction Agency/AST, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201. E-mail: *john.franco@dtra.mil,* Phone: (703) 767–1852, Fax: (703) 767–4911.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting

To obtain, review and evaluate information related to the Task Force's mission focus to assess implementation of the DoD Instruction covering nuclear survivability including EMP and to assess the effectiveness of the management oversight group established by the DoD Instruction.

Meeting Agenda

The Task Force will receive, review and discuss presentations from the military services and other Defense Department agencies and organizations on implementation to date of DoD Instruction 3150.09 which deals with nuclear survivability including EMP and will contain classified materials as will an intelligence briefing on threat issues.

Meeting Accessibility

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. The Undersecretary of Defense (Acquisition, Technology and Logistics), in consultation with the Office of the DoD General Counsel, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Committee at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Committee's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to a scheduled meeting of the Committee may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all committee members.

Dated: September 8, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–22753 Filed 9–10–10; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9200–8]

Clean Water Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency's (EPA) Office of Water intends to transfer confidential business information (CBI) collected from numerous industries to Westat, and its subcontractors. The information being transferred was or will be collected under the authority of section 308 of the Clean Water Act (CWA). Some information being transferred from the pulp, paper, and paperboard industry was collected under the additional authorities of section 114 of the Clean Air Act (CAA) and section 3007 of the Resource Conservation and Recovery Act (RCRA). Transfer of the information will allow the contractor and subcontractors to access information necessary to support EPA in the planning, development, and review of effluent limitations guidelines and standards under the CWA. Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due September 20, 2010.

ADDRESSES: Comments may be sent to Mr. M. Ahmar Siddiqui, Document Control Officer, Engineering and Analysis Division (4303T), Room 6231S EPA West, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. M. Ahmar Siddiqui, Document Control Officer, at (202) 566–1044, or via e-mail at *siddiqui.ahmar@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has transferred CBI to various contractors and subcontractors over the history of the effluent guidelines program. EPA determined that this transfer was necessary to enable the contractors and subcontractors to perform their work in supporting EPA in planning, developing, and reviewing effluent guidelines and standards for certain industries.

Today, EPA is giving notice that it has entered into a contract with Westat, contract number EP–C–10–023, located in Rockville, Maryland. The purpose of this contract is to secure statistical analysis support for EPA in its development, review, implementation, and defense of water-related initiatives for a variety of industries. To obtain assistance in responding to this contract, Westat has entered into contracts with the following subcontractors: Soller Environmental (located in Berkeley, California), Tamre Cordoza (located in Seattle, Washington), Alice Shelly (located in Austin, Texas), Peter Guttorp (located in Seattle, Washington), and Richard Davis (located in New York, New York).

All EPA contractor, subcontractor, and consultant personnel are bound by the requirements and sanctions

contained in their contracts with EPA and in EPA's confidentiality regulations found at 40 CFR part 2, subpart B. Information submitted under a claim of business confidentiality is handled in accordance with EPA's regulations at 40 CFR part 2, subpart B and in accordance with EPA procedures, including comprehensive system security plans (SSPs), that are consistent with those regulations. When EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

Westat will adhere to EPA-approved security plans which describe procedures to protect CBI. Westat will apply the procedures in these plans to CBI previously gathered by EPA and to CBI that may be gathered in the future. The security plans specify that contractor personnel are required to sign non-disclosure agreements and are briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI: A need to know must exist.

The information that will be transferred to Westat consists of information previously collected by EPA to support the development and review of effluent limitations guidelines and standards under the CWA. In particular, information, including CBI, collected for the planning, development, and review of effluent limitations guidelines and standards for the following industries may be transferred: Airport deicing; aquaculture; centralized waste treatment; concentrated animal feeding operations; coal mining; construction and development; drinking water treatment; industrial container and drum cleaning; industrial laundries; industrial waste combustors; iron and steel manufacturing; landfills; meat and poultry products; metal finishing; metal products and machinery; nonferrous metals manufacturing; oil and gas extraction (including coalbed methane); ore mining and dressing; organic chemicals, plastics, and synthetic fibers; pesticide chemicals; petroleum refining; pharmaceutical manufacturing; pulp, paper, and paperboard manufacturing; steam electric power generation; textile mills; timber products processing; tobacco; and transportation equipment cleaning.

EPA also intends to transfer to Westat all information listed in this notice, of the type described above (including CBI) that may be collected in the future under the authority of section 308 of the CWA or voluntarily submitted (*e.g.,* in comments in response to a **Federal Register** notice), as is necessary to enable Westat to carry out the work required by its contract to support EPA's effluent guidelines planning process and the development of effluent limitations guidelines and standards.

Dated: September 8, 2010.

Ephraim S. King,

Director, Office of Science and Technology.

[FR Doc. 2010–22746 Filed 9–10–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9200–4]

Farm, Ranch, and Rural Communities Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a meeting of the Farm, Ranch, and Rural Communities Committee (FRRCC). The FRRCC is a policy-oriented committee that provides policy advice, information, and recommendations to the EPA Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

The purpose of this meeting is to advance discussion of specific topics of unique relevance to agriculture, such as approaches to addressing agricultural non-point source pollution, complex agricultural air issues, and environmental markets, in such a way as to provide thoughtful advice and useful insights to the Agency as it crafts environmental policies and programs that affect and engage agriculture and rural communities. A copy of the meeting agenda will be posted at *http://www.epa.gov/ocem/frrcc.*

DATES: The Farm, Ranch, and Rural Communities Committee will hold an open meeting on Thursday, September 30, 2010, from 8:30 a.m. (registration at 8 a.m.) until 6 p.m. and on Friday, October 1, 2010, from 8:30 a.m. until 1 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held at the Mayflower Renaissance Washington, DC Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036, Telephone: 202–347–3000. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Alicia Kaiser, Designated Federal Officer, *kaiser.alicia@epa.gov,* 202–564–7273, U.S. EPA, Office of the Administrator (1101A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the FRRCC should be sent to Alicia Kaiser, Designated Federal Officer, at the contact information above. All requests must be submitted no later than September 17, 2010.

Meeting Access: For information on access or services for individuals with disabilities, please contact Alicia Kaiser at 202–564–7273 or *kaiser.alicia@epa.gov.* To request accommodation of a disability, please contact Alicia Kaiser, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 7, 2010.

Alicia Kaiser,

Designated Federal Officer.

[FR Doc. 2010–22748 Filed 9–10–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments on the renewal of the information collections described below.

DATES: Comments must be submitted on or before November 12, 2010.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*

• *E-mail*: *comments@fdic.gov*. Include the name of the collection in the subject line of the message.

• *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room F–1064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

1. *Title:* Application Pursuant to Section 19 of the Federal Deposit Insurance Act.

OMB Number: 3064–0018.

Form Number: FDIC 6710/07.

Frequency of Response: On occasion.

Affected Public: Insured depository institutions.

Estimated Number of Respondents: 14.

Estimated Time per Response: 16 hours.

Total Annual Burden: 224 hours.

General Description of Collection: Section 19 of the Federal Deposit Insurance Act (FDI), 12 U.S.C. 1829, requires the FDIC's consent prior to any participation in the affairs of an insured depository institution by a person who has been convicted of crimes involving dishonesty or breach of trust. To obtain that consent, an insured depository institution must submit an application to the FDIC for approval on Form FDIC 6710/07.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record.

Dated at Washington, DC, this 8th day of September, 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2010–22698 Filed 9–10–10; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 12, 2010.

ADDRESSES: You may submit comments, identified by FR 2248 or FR 3033s by any of the following methods:

• *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.

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

• *E-mail: regs.comments@federalreserve.gov*. Include docket number in the subject line of the message.

• *FAX:* 202/452–3819 or 202/452–3102.

• *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be

made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below. Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following report:

Report title: Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248.

OMB control number: 7100–0005.

Frequency: Monthly, Quarterly, and Semi-annually.

Reporters: Domestic finance companies and mortgage companies.

Estimated annual reporting hours: 350 hours.

Estimated average hours per response: Monthly, 20 minutes; Quarterly, 30 minutes; Semi-annually, 10 minutes.

Number of respondents: 70.

General description of report: This information collection is authorized pursuant the Federal Reserve Act (12 U.S.C. 225(a)). Obligation to respond to this information collection is voluntary. Individual respondent data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: The FR 2248 is collected monthly as of the last calendar day of the month from a stratified sample of finance companies. Each monthly report collects balance sheet data on major categories of consumer and business credit receivables and on major short-term liabilities. For quarter-end months (March, June, September, and December), additional asset and liability items are collected to provide a full balance sheet. A supplemental section collects data on securitized assets. The data are used to construct universe estimates of finance company holdings, which are published in the monthly statistical releases Finance Companies (G.20) and Consumer Credit (G.19), in the quarterly statistical release Flow of Funds Accounts of the United States (Z.1), and in the *Federal Reserve Bulletin* (Tables 1.51, 1.52, and 1.55).

Current Actions: The Federal Reserve proposes to revise the FR 2248 reporting form by: (1) Revising the reporting frequency for the breakout of 1–4 family real estate loans from quarterly to monthly, (2) adding data items in the liability and equity capital section of the report, (3) reordering the asset and liability data items from most liquid to least liquid, (4) adding two columns to create a clearer distinction among broad balance sheet data items, which are collected quarterly, detailed loan and lease data items, which are collected monthly, and the off-balance-sheet securitization data items; and (5) deleting the supplemental data items on the sale of receivables. The proposed changes to the FR 2248 would be effective with the December 31, 2010, report date.

Proposal to approve under OMB delegated authority the implementation of the following report:

Report title: Survey of Finance Companies.

Agency form number: FR 3033s.

OMB control number: 7100–0277.

Frequency: One-time.

Reporters: Finance companies and mortgage companies.

Estimated annual reporting hours: 2,700 hours.

Estimated average hours per response: 1.5 hours.

Number of respondents: 1,800.

General description of report: This information collection is authorized pursuant the Federal Reserve Act (12 U.S.C. 225a, 263, and 355–59). Obligation to respond to this information collection is voluntary. Individual respondent data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: This information collection is a two-stage survey of finance and mortgage companies. The first stage is a simple questionnaire (FR 3033p) that is sent to all known domestic finance and mortgage companies and that asks for information about each company's total net assets, areas of specialization, and other characteristics. From the questionnaire respondents, the Federal Reserve draws a stratified random sample of finance and mortgage companies for the second stage, the survey itself (FR 3033s). The survey requests detailed information from both sides of the respondents' balance sheets. The Federal Reserve Board initiates data collection and analysis, and staff at the Federal Reserve Banks follow up on data quality issues, collect data from late FR 3033s, and resolve other outstanding questions.

Current Actions: The first stage of this survey, the Census of Finance Companies (FR 3033p), was conducted in April 2010. The FR 3033p was sent to all companies that met the criteria developed to identify the potential universe of domestic finance companies. From the universe of finance companies as determined by the FR 3033p, a stratified random sample of 3,000 finance companies would be drawn for the FR 3033s. The survey would be sent in February 2011 and collect detailed information, as of December 31, 2010, from both sides of the respondents' balance sheets, as well as companies' geographic scope of operations and servicing activities. The data collected from this survey would be used for two purposes: To benchmark the consumer and business finance series collected on the monthly Domestic Finance Company Report of Consolidated Assets and Liabilities (FR 2248; OMB No. 7100–0005) and to increase the Federal Reserve's understanding of an important part of the financial system.

The Federal Reserve proposes to revise the FR 3033s by: (1) Increasing the respondent panel size from 750 to 3,000, (2) adding a section to solicit information on servicing activities and geographic distribution of the company's activities, (3) changing the survey title, (4) revising the reporting form by reordering the asset and liability data items from most liquid to least liquid and asking for additional detail on assets and liabilities, and (5) adding two columns to create a clearer distinction among the broad balance sheet data items, detailed loan and lease data items, and off-balance-sheet securitization data items.

Board of Governors of the Federal Reserve System, September 7, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–22659 Filed 9–10–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information.

Copies of the Paperwork Reduction Act (PRA) Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Michelle Shore—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829);

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. *Report title:* Surveys of Board Publications.

Agency form number: FR 1373a,b.

OMB control number: 7100–0301.

Frequency: FR 1373a survey, one or two times per year; FR 1373a discussion groups, two times a year. FR 1373b small-panel survey, two times a year; FR 1373b large-panel survey, one time per year.

Reporters: FR 1373a—community-based educators, key stakeholders, and other educators who have previously requested consumer education materials from the Federal Reserve. FR 1373b—current subscribers of the publications being surveyed.

Estimated annual reporting hours: FR 1373a survey, 375 hours; FR 1373a discussion groups, 60 hours. FR 1373b small-panel, 6 hours; FR 1373b large-panel 32 hours.

Estimated average hours per response: FR 1373a survey, 30 minutes; FR 1373a discussion groups, 90 minutes. FR 1373b small-panel, 10 minutes; FR 1373b large-panel 10 minutes.

Number of respondents: FR 1373a survey, 500; FR 1373a panel discussion, 20. FR 1373b small-panel, 20; FR 1373b large-panel, 200.

General description of report: This information collection is voluntary. The FR 1373a study is authorized pursuant to section 18(f) of the Federal Trade Commission Improvement Act (15 U.S.C. 57a (f)). The FR 1373b study is authorized pursuant to the Federal Reserve Act (12 U.S.C. 248(i)). The specific information collected is not considered confidential.

Abstract: The Federal Reserve uses the FR 1373a to (1) conduct periodic reviews and evaluations of the consumer education materials and (2) develop and evaluate consumer education materials under consideration for distribution. The FR 1373b data help the Federal Reserve determine if it should continue to issue certain publications and, if so, whether the public would like to see changes in the method of information delivery, frequency, content, format, or appearance.

Current Actions: On June 25, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 36393) seeking public comment for 60 days on the extension, without revision, of the Surveys of Board Publications. The comment period for this notice expired on August 24, 2010. The Federal Reserve did not receive any comments.

2. *Report title:* Interagency Bank Merger Act Application.

Agency form number: FR 2070.

OMB control number: 7100–0171.

Frequency: On occasion.

Reporters: State member banks.

Estimated annual reporting hours: Nonaffiliate Transactions, 1,470 hours; Affiliate Transactions, 216 hours.

Estimated average hours per response: Nonaffiliate Transactions, 30 hours; Affiliate Transactions, 18 hours.

Number of respondents: Nonaffiliate Transactions, 49; Affiliate Transactions, 12.

General description of report: This information collection is mandatory. The FR 2070 is pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) and is not given confidential treatment. However, applicants may request that parts of a submitted application be kept confidential. In such cases, the burden is on the applicant to justify the exemption by demonstrating that disclosure would cause substantial competitive harm or result in an unwarranted invasion of personal privacy or would otherwise qualify for an exemption under the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6)). The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: The Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision each use this application form to collect information for bank merger proposals that require prior approval under the Bank Merger Act. Prior approval is required for every merger transaction involving affiliated or nonaffiliated institutions and must be sought from the regulatory agency of the depository institution that would survive the proposed transaction. A merger transaction may include a merger, consolidation, assumption of deposit liabilities, or certain asset-transfers between or among two or more institutions. The Federal Reserve collects this information so that it may meet its statutory obligation to evaluate the competitive, financial, managerial, future prospects, and convenience and needs aspects of each state member bank merger proposal.

Current Actions: On June 25, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 36393) seeking public comment for 60 days on the extension, without revision, of the Interagency Bank Merger Act Application. The comment period for this notice expired on August 24, 2010. The Federal Reserve did not receive any comments.

3. *Report title:* Interagency Notice of Change in Control, Interagency Notice of Change in Director or Senior Executive Officer, and Interagency Biographical and Financial Report.

Agency form number: FR 2081a, FR 2081b, and FR 2081c.

OMB control number: 7100–0134.

Frequency: On occasion.

Reporters: Financial institutions and certain of their officers and shareholders.

Annual reporting hours: FR 2081a, 3,570 hours; FR 2081b, 272 hours; FR 2081c, 3,572 hours.

Estimated average hours per response: FR 2081a, 30 hours; FR 2081b, 2 hours; FR 2081c, 4 hours.

Number of respondents: FR 2081a, 119; FR 2081b, 136; FR 2081c, 893.

General description of report: This information collection is mandatory pursuant to section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) and section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 1831(i)) and is not given confidential treatment. However, applicants may request that parts of a submitted application be kept confidential. In such cases, the burden is on the applicant to justify the exemption by demonstrating that disclosure would cause substantial competitive harm or result in an unwarranted invasion of personal privacy or would otherwise qualify for an exemption under the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6)). The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: The information collected assists the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision in fulfilling their statutory responsibilities as supervisors. Each of these forms is used to collect information in connection with applications and notices filed prior to proposed changes in the ownership or management of banking organizations. The agencies use the information to evaluate the controlling owners, senior officers, and directors of the insured depository institutions subject to their oversight.

Current Actions: On June 25, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 36393) seeking public comment for 60 days on the extension, without revision, of the FR 2081a, b, c. The comment period for this notice expired on August 24, 2010. The Federal Reserve did not receive any comments.

4. *Report title:* Recordkeeping and Disclosure Requirements Associated with Regulation R.

Agency form number: FR 4025.

OMB control number: 7100–0316.

Frequency: On occasion.

Reporters: Commercial banks and savings associations.

Estimated annual reporting hours: Section 701, disclosures to customers—12,500 hours; Section 701, disclosures to brokers—375 hours; Section 723, recordkeeping—188 hours; Section 741, disclosures to customers—62,500 hours.

Estimated average hours per response: Section 701, disclosures to customers—5 minutes; Section 701, disclosures to brokers—15 minutes; Section 723, recordkeeping—15 minutes; Section 741, disclosures to customers—5 minutes.

Number of respondents: Section 701, disclosures to customers—1,500; Section 701, disclosures to brokers—1,500; Section 723, recordkeeping—75; Section 741, disclosures to customers—750.

General description of report: This information collection is required to obtain a benefit pursuant to section 3(a)(4)(F) of the Securities Exchange Act (15 U.S.C. 78c(a)(4)(F)) and may be given confidential treatment under the authority of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(8)).

Abstract: Regulation R implements certain exceptions for banks from the definition of broker under Section 3(a)(4) of the Securities Exchange Act of 1934, as amended by the Gramm-Leach-Bliley Act. Sections 701, 723, and 741 of Regulation R contain information collection requirements. Section 701 requires banks that wish to utilize the exemption in that section to make certain disclosures to the high net worth customer or institutional customer. In addition, section 701 requires banks that wish to utilize the exemption in that section to provide a notice to its broker-dealer partner regarding names and other identifying information about bank employees. Section 723 requires a bank that chooses to rely on the exemption in that section to exclude certain trust or fiduciary accounts in determining its compliance with the chiefly compensated test in section 721 to maintain certain records relating to the excluded accounts. Section 741 requires a bank relying on the exemption provided by that section to provide customers with a prospectus for the money market fund securities, not later than the time the customer authorizes the bank to effect the transaction in such securities, if the class of series of securities are not no-load.

Current Actions: On June 25, 2010, the Federal Reserve published a notice in the **Federal Register** (75 FR 36393) seeking public comment for 60 days on the extension, without revision, of the FR 4025. The comment period for this notice expired on August 24, 2010. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, September 7, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–22676 Filed 9–10–10; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 28, 2010.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. David H. Duey Revocable Trust, David H. Duey, trustee, Scottsbluff, Nebraska; Diana Duey Strokan Trust, Diana Duey Strokan, trustee, Plattsmouth, Nebraska; Ann Duey Revocable Trust, Ann Duey, trustee, Scottsbluff, Nebraska; Sara Lierman, Gretna, Nebraska; Laura Strickland, Brentwood, Tennessee; Dan Duey, Lincoln, Nebraska; Natasha Duran, Santa Fe, New Mexico; and Nathan Strokan, Plattsmouth, Nebraska; all members of the Duey Family Group, to retain control of Cass County State Company, and thereby indirectly retain control of Cass County Bank, Inc., both of Plattsmouth, Nebraska.

Board of Governors of the Federal Reserve System, September 8, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–22724 Filed 9–10–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health Statement of Organization, Functions, and Delegations of Authority

Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 66 FR 6617, January 22, 2001, and redesignated from Part HN as Part N at 60 FR 56605, November 9, 1995), is amended as set forth below to rename the National Center on Minority Health and Health Disparities (NCMHD) as the National Institute on Minority Health and Health Disparities (NIMHD) and to amend its functional statement. The Public Health Service Act (42 U.S.C. 281 *et seq.*), as amended by Public Law 111–148, § 10334(c), provides the authorities of the Institute.

Section N–B, Organization and Functions, under the heading National Center on Minority Health and Health Disparities (NCMHD) (NE, formerly HNE), is revised as follows:

National Institute on Minority Health and Health Disparities (NIMHD) (NE, formerly HNE). (1) Conducts and supports research, training, information dissemination, and other programs including centers of excellence, loan repayment, research endowment, and community-based participatory research

initiatives, with respect to minority health conditions and other populations with health disparities; (2) Plans, coordinates, reviews, and evaluates research and other activities on minority health and health disparities conducted or supported by the NIH Institutes and Centers (ICs), consistent with the NIMHD's authorizing statute; (3) In collaboration with the NIH Director and other IC Directors, and in consultation with the NIMHD advisory council, develops a comprehensive strategic plan and budget that identifies and establishes priorities, objectives, budgets, and policy statements for the conduct and support of all NIH minority health and health disparities research activities, and ensures that all amounts appropriated for such activities are expended in accordance with the strategic plan and budget; (4) In collaboration with the NIH Director and other IC Directors, and in consultation with the NIMHD advisory council, promotes coordination and collaboration among ICs conducting or supporting minority health or other health disparities research; (5) Provides leadership for a national and international program on minority health and health disparities research; (6) Represents the NIH minority health and health disparities research program at all relevant Executive Branch task forces, committees, and planning activities; (7) Develops and maintains a Health Disparities Information (HDI) database to facilitate the collection of data, translation of research, education, dissemination, and communication of information to various audiences, including the Public Health Service (PHS) and other Federal agencies, on minority health and health disparities research, advances, and other activities including those planned, conducted, or supported by the NIH; (8) Establishes projects to promote cooperation among Federal agencies, State, local, tribal, and regional public health agencies, and private entities in health disparities research; (9) Develops and revises, as necessary, the national definition for health disparity population in consultation with the Agency for Healthcare Research and Quality; (10) Provides leadership for the implementation of the Minority Health and Health Disparities Research and Education Act (Pub. L. 106–525) and the Patient Protection and Affordable Care Act (Pub. L. 111–148) and other relevant public laws as they relate to the NIMHD mission and the NIH minority health and health disparities research and activities.

Delegations of authority statement: All delegations and redelegations of authority to officers and employees of NIH that were in effect immediately prior to the effective date of this reorganization and are consistent with this reorganization shall continue in effect, pending further redelegation.

Dated: August 4, 2010.

Kathleen Sebelius,

Secretary.

[FR Doc. 2010–22666 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (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.

Proposed Project: Ryan White HIV/AIDS Program Core Medical Services Waiver Application Requirements (OMB No. 0915–0307)—Extension

Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, (Ryan White HIV/AIDS Program), requires that grantees expend 75 percent of Parts A, B, and C funds on core medical services, including antiretroviral drugs, for individuals with HIV/AIDS identified and eligible under the legislation. In order for grantees under Parts A, B, and C to be exempted from the 75 percent core medical services requirement, they must request and receive a waiver from HRSA, as required in the Act.

HRSA utilizes standards for granting waivers of the core medical services requirement for the Ryan White HIV/AIDS Program. These standards meet the intent of the Ryan White HIV/AIDS Program to increase access to core medical services, including antiretroviral drugs, for persons with HIV/AIDS and to ensure that grantees receiving waivers demonstrate the availability of such services for individuals with HIV/AIDS identified and eligible under Title XXVI of the PHS Act. The core medical services waiver uniform standard and waiver request process will apply to Ryan White HIV/AIDS Program Grant awards under Parts A, B, and C of Title XXVI of the PHS Act. Core medical services waivers will be effective for a 1-year period that is consistent with the grant award period.

Grantees must submit a waiver request with the annual grant application containing the certifications and documentation which will be utilized by HRSA in making determinations regarding waiver requests. Grantees must provide evidence that all of the core medical services listed in the statute, regardless of whether such services are funded by the Ryan White HIV/AIDS Program, are available to all individuals with HIV/AIDS identified and eligible under Title XXVI of the PHS Act in the service area within 30 days.

The annual estimate of burden is as follows:

Application	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Waiver request	10	1	10	6.5	60

Application	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Total	10	1	10	6.5	60

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 3, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–22662 Filed 9–10–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Organ Procurement and Transplantation Network and Scientific Registry of Transplant Recipients Data System (OMB No. 0915–0157)—Extension

Section 372 of the Public Health Service (PHS) Act requires that the Secretary, by contract, provide for the establishment and operation of an Organ Procurement and Transplantation Network (OPTN). The OPTN, among other responsibilities, operates and maintains a national waiting list of individuals requiring organ transplants, maintains a computerized system for matching donor organs with transplant candidates on the waiting list, and operates a 24-hour system to facilitate matching organs with individuals included in the list.

Data for the OPTN data system are collected from transplant hospitals, organ procurement organizations, and tissue-typing laboratories. The information is used to indicate the disease severity of transplant candidates, to monitor compliance of member organizations with OPTN rules and requirements, and to report periodically on the clinical and scientific status of organ donation and transplantation in this country. Data are used to develop transplant, donation and allocation policies, to determine if institutional members are complying with policy, to determine member-specific performance, to ensure patient safety when no alternative sources of data exist and to fulfill the requirements of the OPTN Final Rule. The practical utility of the data collection is further enhanced by requirements that the OPTN data must be made available, consistent with applicable laws, for use by OPTN members, the Scientific Registry of Transplant Recipients, the Department of Health and Human Services, and others for evaluation, research, patient information, and other important purposes.

No revisions of the 29 data collection forms are proposed at this time; however, the OPTN is currently undergoing a review of the forms and expects to submit proposed revisions within the next year.

The annual estimate of burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Deceased Donor Registration	58	216	12,528	0.7500	9,396.0000
Death referral data	58	12	696	10.0000	6,960.0000
Death Notification Referral—Eligible	58	161	9338	0.2000	1,867.6000
Death Notification Referral—Imminent	58	168	9744	0.5000	4,872.0000
Living Donor Registration	308	39	12,012	0.6500	7,807.8000
Living Donor Follow-up	308	50	15,400	0.5000	7,700.0000
Donor Histocompatibility	156	131	20,436	0.1000	2,043.6000
Recipient Histocompatibility	156	196	30,576	0.2000	6,115.2000
Heart Candidate Registration	127	35	4,445	0.5000	2,222.5000
Lung Candidate Registration	68	42	2,856	0.5000	1,428.0000
Heart/Lung Candidate Registration	51	2	102	0.5000	51.0000
Thoracic Registration	127	36	4,572	0.7500	3,429.0000
Thoracic Follow-up	127	320	40,640	0.6500	26,416.0000
Kidney Candidate Registration	241	183	44,103	0.5000	22,051.5000
Kidney Registration	241	83	20,003	0.7500	15,002.2500
Kidney Follow-up*	241	742	178,822	0.5500	98,352.1000
Liver Candidate Registration	129	109	14,061	0.5000	7,030.5000
Liver Registration	129	58	7,482	0.6500	4,863.3000
Liver Follow-up	129	519	66,951	0.5000	33,475.5000
Kidney/Pancreas Candidate Registration	143	14	2,002	0.5000	1,001.0000
Kidney/Pancreas Registration	143	7	1,001	0.9000	900.9000
Kidney/Pancreas Follow-up	143	85	12,155	0.8500	10,331.7500
Pancreas Candidate Registration	143	7	1,001	0.5000	500.5000
Pancreas Registration	143	3	429	0.7500	321.7500
Pancreas Follow-up	143	20	2,860	0.6500	1,859.0000
Intestine Candidate Registration	44	7	308	0.5000	154.0000
Intestine Registration	44	5	220	0.9000	198.0000
Intestine Follow-up	44	28	1,232	0.8500	1,047.2000

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Post Transplant Malignancy	684	10	6,840	0.2000	1,368.0000
Total	463		522,815		278,765.9500

* Includes an estimated 2,500 kidney transplant patients transplanted prior to the initiation of the data system.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: September 3, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–22665 Filed 9–10–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research of the National Institutes of Health

SUMMARY: 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 Office of Extramural Research (OER), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research of the National Institutes of Health. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* OER develops, coordinates the implementation of, and evaluates NIH-wide policies and procedures for the award of extramural funds . To move forward with our initiatives to ensure success in accomplishing the NIH mission, input from partners and customers is essential. Quality management principles have been integrated into OER's culture and these surveys will provide customer satisfaction input on various elements of OER's business processes. The approximately 14 (10 quantitative and 4 qualitative) customer satisfaction surveys that will be conducted under this generic clearance will gather and measure customer and partner satisfaction with OER processes and operations. The data collected from these surveys will provide the feedback to track and gauge satisfaction with NIH's statutorily mandated operations and processes. OER/OD/NIH will present data and outcomes from these surveys to inform the NIH staff, officers, leadership, advisory committees, and other decision-making bodies as appropriate. Based on feedback from these stakeholders, OER/OD/NIH will formulate improvement plans and take action when necessary. *Frequency of Response:* 1 Response. *Affected Public:* Individuals. *Type of Respondents:* Science professionals (applicants, reviewers, Institutional Officials), adult science trainees, and the general public. The annual reporting burden is as follows:

Quantitative surveys:

Estimated Number of Respondents per Survey: 9,820; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 0.25; *Estimated Total Annual Burden Hours Requested per Quantitative Survey:* 2,455; *Estimated Total Annual Burden Hours Requested for 10 Quantitative Surveys:* 24,550.

Qualitative surveys:

Estimated Number of Respondents per Survey: 30; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 1.0; *Estimated Total Annual Burden Hours Requested per Qualitative Survey:* 30; *Estimated Total Annual Burden Hours Requested for 4 Qualitative Surveys:* 120.

Based on an estimated 10 quantitative and 4 qualitative surveys per year:

Estimated Total Combined Annual Hours of Burden Requested in Each of 3 years: 24,670.

Estimated Total Combined Cost to Respondents: $728,326.

Based on an estimated 10 quantitative and 4 qualitative surveys per year over 3 years:

Estimated Total Hours of Burden to Respondents for 2011, 2012, and 2013 Combined: 74,010.

Estimated Total Cost to Respondents for 2011, 2012, and 2013 Combined: $2,184,978.

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed generic clearance or to obtain a copy of example data collection instruments, contact Dr. Gwynne Jenkins, Special Assistant to the Director, Office of Extramural Programs, OER, NIH, 6705 Rockledge Drive, Suite 350, Bethesda, MD 20892, or call non-toll-free number (301) 496–9232 or E-mail your request, including your address to: *OEPMailbox@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: August 30, 2010.

Sherry Mills,

Director, Office of Extramural Programs.

[FR Doc. 2010–22712 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request Cancer Trials Support Unit (CTSU) Public Use Forms and Customer Satisfaction Surveys (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 13, 2010 (75 FR 39950) and allowed 60-days for public comment. There have been no public comments. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title Cancer Trial Support Unit (CTSU). *Type of Information Collection Request:* Existing Collection in Use Without an OMB Number. *Need and Use of Information Collection:* CTSU collects annual surveys of customer satisfaction for clinical site staff using the CTSU Help Desk and the CTSU Web site. An ongoing user satisfaction survey is in place for the Oncology Patient Enrollment Network (OPEN). User satisfaction surveys are compiled as part of the project quality assurance activities and used to direct improvements to processes and technology. In addition, the CTSU collects standardized forms to process site regulatory information, changes to membership, patient enrollment data, and routing information for case report forms. This questionnaire adheres to The Public Health Service Act, Section 413 (42 U.S.C. 285a-2) authorizes CTEP to establish and support programs to facilitate the participation of qualified investigators on CTEP-supported studies, and to institute programs that minimize redundancy among grant and contract holders, thereby reducing overall cost of maintaining a robust treatment trials program. *Frequency of Response:* The help desk and Web site survey are collected annually. The OPEN survey is ongoing. Submission of forms varies depending on the purpose of the form and the activity of the local site. *Affected Public:* CTSU's target audience is staff members at clinical sites and CTEP-supported programs. Respondent and burden estimates are listed in the Table below. The annualized burden is estimated to be 27,861 hours and the annualized cost to respondents is estimated to be $757,828. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Attach No.	Section/form or survey title	Use metrics/ month-# respond	Estimated time for site to complete minutes	Estimated burden (minutes/ hours)	Frequency of response	Total annual usage/annual burden hours
1a	CTSU IRB/Regulatory Approval Transmittal Form.	9,000	2	0.03	12.00	3,240
1b	CTSU IRB Certification Form	8,500	10	0.17	12.00	17,340
1c	CTSU Acknowledgement Form	500	5	0.08	12.00	480
1d	*Optional Form 1—Withdrawal from Protocol Participation Form.*	10	5	0.08	12.00	10
	Roster Forms					
1e	CTSU Roster Update Form	50	2–4	0.07	12.00	42
1f	CTSU Radiation Therapy Facilities Inventory Form.	20	30	0.50	12.00	120
	Drug Shipment					
1g	CTSU IBCSG Drug Accountability Form	11	5–10	0.17	12.00	22
1h	CTSU IBCSG Transfer of Investigational Agent Form.	3	20	0.33	12.00	12
	Data Management					
1i	Site Initiated Data Update Form (generic)	10	5–10	0.17	12.00	20
1j	N0147 CTSU Data Transmittal Form	330	5–10	0.17	12.00	673
1k	Site Intimated Data Update Form (DUF), Protocol: NCCTG N0147*.	30	5–10	0.17	12.00	61
1l	TAILORX/PACCT 1 CTSU Data Transmittal Form.	1200	5–10	0.17	12.00	2,448
1m	Data Clarification Form	144	15–20	0.33	12.00	570
1n	Unsolicited Data Modification Form (UDM), Protocol:TAILORx/PACCT1.	30	5–10	0.17	12.00	61
1o	Z4032 CTSU Data Transmittal Form	58	5–10	0.17	12.00	118
1p	Z1031 CTSU Data Transmittal Form	54	5–10	0.17	12.00	110
1q	Z1041 CTSU Data Transmittal Form	48	5–10	0.17	12.00	98
1r	Z6051 CTSU Data Transmittal Form	12	5–10	0.17	12.00	24
1s	RTOG 0834 CTSU Data Transmittal Form*	60	5–10	0.17	12.00	122
1t	CTSU 7868 Data Transmittal Form	30	5–10	0.17	12.00	61
1u	Site Initiated Data Update Form, Protocol 7868.	10	5–10	0.17	12.00	20
1v	MC0845(8233) CTSU Data Transmittal*	40	5–10	0.17	12.00	82

Attach No.	Section/form or survey title	Use metrics/ month-# respond	Estimated time for site to complete minutes	Estimated burden (minutes/ hours)	Frequency of response	Total annual usage/annual burden hours
1w	8121 CTSU Data Transmittal Form*	40	5–10	0.17	12.00	82
1x	Site Initiated Data Update Form, Protocol 8121.	10	5–10	0.17	12.00	20
1y	USMCI 8214/Z6091: CTSU Data Transmittal *In Development.	50	5–10	0.17	12.00	102
1z	USMCI 8214/Z6091 Crossover Request/ Checklist Transmittal Form.	5	5–10	0.17	12.00	10
Patient Enrollment						
1aa	CTSU Patient Enrollment Transmittal Form	600	5–10	0.17	12.00	1,224
1bb	CTSU P2C Enrollment Transmittal Form	30	5–10	0.17	12.00	61
1cc	CTSU Transfer Form	40	5–10	0.17	12.00	82
Administrative						
1dd	CTSU System Account Request Form	10	15–20	0.33	12.00	40
1ee	CTSU Request for Clinical Brochure	35	10	0.17	12.00	71
1ff	CTSU Supply Request Form	130	5–10	0.17	12.00	265
Surveys/Web Forms						
2	CTSU Web Site Customer Satisfaction Survey.	250	10–15	0.2500	1.00	63
3	CTSU Helpdesk Customer Satisfaction Survey.	300	10–15	0.2500	1.00	75
4	CTSU OPEN Survey	120	10–15	0.2500	1.00	30
Annual Totals		21,770				27,861

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, at *oira_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Michael Montello, Pharm. D., CTEP, 6130 Executive Blvd., Rockville, MD 20852. all non-toll-free number 301–435–9206 or e-mail your request, including your address to: *montellom@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: September 7, 2010.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2010–22710 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Family-to-Family Health Information Center Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) will be transferring the Vermont Family-to-Family Health Information Center (F2F HIC) grant (H84MC00002) from the Parent to Parent (P2P) of Vermont to the Vermont Family Network, Inc. (VFN) in Williston, due to an organizational merger involving these entities and to ensure the continued provision of health resources, financing, related services, and parent-to-parent support for families with children and youth with special health care needs (CYSHCN) in the state of Vermont.

FOR FURTHER INFORMATION CONTACT: LaQuanta Person, Integrated Services Branch, Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18A–18, Rockville, MD 20857, via e-mail at *lperson@hrsa.gov* or call 301.443.2370.

SUPPLEMENTARY INFORMATION:

Former Grantee of Record: Parent to Parent of Vermont.

Original Grant Period: June 1, 2006 to May 31, 2011.

Replacement Awardee: Vermont Family Network, Inc.

Amount of Replacement Award: $95,700 for the remainder of the project period.

Period of Replacement Award: The period of support for the replacement award is June 1, 2010 to May 31, 2011.

Authority: Section 501(c)(1)(A) of the Social Security Act, as amended.

CFDA Number: 93.504.

Justification for the Exception to Competition: The former grantee, P2P of Vermont, has relinquished all grants held under the P2P legal name due to an organizational merger with VFN. The former grantee has requested that HRSA transfer the F2F HIC funds to VFN in order to implement and carry out grant activities originally proposed under P2P of Vermont grant applications.

A single-source award was made to VFN because of the organizational merger of P2P into VFN and the following program determinations: (1) Continuing need for the project; (2) that the time required to obtain competition would seriously jeopardize the success of the project and put at risk the health of the people being served by the project; (3) that there will be no significant change in the scope or objectives (including any reduction) of the previously approved project or activity; (4) that the replacement recipient is eligible to receive the award and its facilities and resources allow for the successful performance of the project.

CYSHCN are defined as "those children and youth who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required by children generally" (American Academy of Pediatrics, 1998). This is particularly relevant since 2006 National survey data showed more than 17% of CYSHCN in Vermont had problems getting referrals to care. Also, because of changes occurring in State services and funding for CYSHCN, many families and providers alike need to be kept up to date on these changes so that they can access appropriate services. This center is urgently needed to address these gaps and disparities in information and services.

It is critical that VFN continue helping families of CYSHCN gain access to information they need to make informed health care decisions, be full partners in decisionmaking, and access needed resources/referrals and financing for those services in the state of Vermont. It is also imperative that the center continues to train and support health care providers and other professionals in public and private agencies who serve Vermont's CYSHCN, helping them better understand the needs of children, youth and their families.

VFN will receive funding through May 31, 2011 to continue the same state-wide services as previously outlined in the originally competed and approved grant application submitted by the P2P of Vermont. This replacement award will maintain Congress' mandate under the 2005 Budget Deficit Reduction Act/Family Opportunity Act and the Patient Protection and Affordable Care Act (Pub. L. 111–148) that there shall be an F2F HIC in all 50 States and the District of Columbia by June 2009. It will also ensure that an F2F HIC will be accessible to families and professionals to continue providing essential information, referral and support services to families with CYSHCN throughout Vermont and in a manner which avoids any disruption of services.

Dated: September 3, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–22664 Filed 9–10–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Family-to-Family Health Information Center Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) will be transferring the Florida Family-to-Family Health Information Center (F2F HIC) grant (H84MC00006) from the Florida Institute of Family Involvement (FIFI) to the Family Café in Tallahassee due to financial difficulties resulting in closure of FIFI facilities and programs. This action ensures the continued provision of health resources, financing, related services and parent-to-parent support for families with children and youth with special health care needs (CYSHCN) in the state of Florida.

FOR FURTHER INFORMATION CONTACT: LaQuanta Person, Project Officer, Integrated Services Branch, Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 18A–18, Rockville, MD 20857; 301.443.2370; *lperson@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Former Grantee of Record: Florida Institute of Family Involvement.

Original Grant Period: June 1, 2006 to May 31, 2011.

Replacement Awardee: The Family Café.

Amount of Replacement Award: Up to $95,700 for the remaining of the project period.

Period of Replacement Award: The period of support for the replacement award is June 1, 2010 to May 31, 2011.

Authority: Section 501(c)(1)(A) of the Social Security Act, as amended.

CFDA Number: 93.504.

Justification for the Exception to Competition: The former grantee, FIFI, has relinquished all grants due to financial difficulties resulting in closure of FIFI facilities and programs. The former grantee has requested that HRSA transfer the F2F HIC funds to the Family Café in order to implement and carry out grant activities originally proposed under FIFI grant applications.

A single-source award was made to the Family Café because of the financial difficulties of FIFI and the following program determinations: (1) Continuing need for the project; (2) that the time required to obtain competition would seriously jeopardize the success of the project and put at risk the health of the people being served by the project; (3) that there will be no significant change in the scope or objectives (including any reduction) of the previously approved project or activity; (4) that the replacement recipient is eligible to receive the award and its facilities and resources allow for the successful performance of the project.

CYSHCN are defined as "those children and youth who have or are at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required by children generally" (American Academy of Pediatrics, 1998). This is particularly relevant since 2006 National survey data showed more than 26% of CYSHCN in Florida had problems getting referrals to care. Florida was ranked fourth nationally for the highest estimated number of CYSHCN in the state (551,263). In addition, because of changes occurring in state services and funding for CYSHCN, many families and providers alike need to be kept up to date on these changes so that they can access appropriate services. This center is urgently needed to address these gaps and disparities in information and services. It is critical that the Family Café continue helping families of CYSHCN gain access to information they need to make informed health care decisions, be full partners in decision-making and access needed resources/referrals and financing for those services in the state of Florida. It is also imperative that the center continues to

train and support health care providers and other professionals in public and private agencies who serve Florida's CYSHCN, helping them better understand the needs of children, youth and their families.

The Family Café will receive funding through May 31, 2011 to continue the same state-wide services as previously outlined in the originally competed and approved grant application submitted by FIFI. This replacement award will maintain Congress' mandate under the 2005 Budget Deficit Reduction Act/ Family Opportunity Act and the Patient Protection and Affordable Care Act (Pub. L. 111–148) that there shall be an F2F HIC in all 50 states and the District of Columbia by June 2009. It will also ensure that an F2F HIC will be accessible to families and professionals to continue providing essential information, referral and support services to families with CYSHCN throughout Florida and in a manner which avoids any disruption of services.

Dated: September 3, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–22663 Filed 9–10–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0463]

Fee for Using a Priority Review Voucher in Fiscal Year 2011

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the fee rates for using a tropical disease priority review voucher for fiscal year (FY) 2011. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by title XI of the Food and Drug Administration Amendments Act of 2007 (FDAAA), authorizes FDA to determine and collect priority review user fees for certain applications for approval of drug or biological products when those applications use a priority review voucher awarded by the Secretary of Health and Human Services. These vouchers are awarded to the sponsor of certain tropical disease product applications, submitted after September 27, 2007, upon FDA approval of such applications. The amount of the fee to be submitted to FDA with applications using a priority review voucher is determined each fiscal year (FY) based on the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous FY.

This notice establishes the priority review fee rate for FY 2011.

FOR FURTHER INFORMATION CONTACT: David Miller, Office of Financial Management (HFA–100), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–796–7103.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1102 of FDAAA added new section 524 to the FD&C Act (21 U.S.C. 360n). In section 524, Congress encouraged development of new drug and biological products for prevention and treatment of certain tropical diseases by offering additional incentives for obtaining FDA approval of such products. Under section 524, the sponsor of an eligible human drug application submitted after September 27, 2007, for a qualified tropical disease (as defined in section 524(a)(3)), shall receive a priority review voucher upon approval of the tropical disease product application. The recipient of a priority review voucher may either use the voucher with a future submission to FDA under section 505(b)(1) of the FD&C Act (21 U.S.C. 355(b)(1)) or section 351 of the Public Health Service Act (21 U.S.C. 262), or transfer (including by sale) the voucher to another party that may then use it. A priority review is a review conducted with a Prescription Drug User Fee Act (PDUFA) goal date of 6 months.

The applicant that uses a priority review voucher is entitled to a priority review but must pay FDA a priority review user fee in addition to any other fee required by PDUFA. FDA has published a draft guidance on its Web site about how this priority review voucher program will operate (available at: *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm080599.pdf*).

This notice establishes the priority review fee rate for 2011 of $4,582,000, and outlines FDA's process for implementing the collection of the priority review user fees. This rate is effective on October 1, 2010, and will remain in effect through September 30, 2011, for applications submitted with a priority review voucher, and the payment of this priority review user fee is required in addition to the payment of any other fee that would normally apply to such an application under PDUFA before FDA considers the application complete and acceptable for filing.

II. Priority Review User Fee for FY 2011

Under section 524(c)(2) of the FD&C Act, the amount of the priority review user fee is to be determined each FY based on the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous FY.

A priority review is a review conducted with a PDUFA goal date of 6 months. Normally, an application for a Center for Drug Evaluation and Research (CDER) product will qualify for a priority review if FDA determines that the product, if approved, would provide safe and effective therapy where no satisfactory alternative therapy exists or would be a significant improvement compared to marketed products, including non-drug products and/or therapies, in the treatment, diagnosis, or prevention of a disease. A Center for Biologics Evaluation and Research (CBER) product will qualify for a priority review if FDA determines that the product, if approved, would be a significant improvement in the safety or effectiveness of the treatment, diagnosis, or prevention of a serious or life-threatening disease. FDA has committed to a goal to review and act on 90 percent of the applications that have been granted priority review status no later than 6 months after receipt. An application that does not receive a priority designation will receive a "standard" review. Under the goals identified in the letters referenced in section 101(c) of FDAAA, FDA commits to a goal to review and act on 90 percent of "standard" applications within 10 months of the date of receipt. A priority review involves a more intensive level of effort and a higher level of resources than a standard review.

Section 524 of the FD&C Act specifies that the fee amount should be based on the average cost incurred by the Agency for a priority review in the previous FY. Because FDA has never tracked the cost of reviewing applications that get priority review as a separate cost subset, FDA estimated this cost based on other data that the Agency has tracked and kept. FDA started by using data that the Agency estimates and publishes on its Web site each year—standard costs for review. FDA does not publish a standard cost for "the review of a human drug application subject to priority review in the previous fiscal year." However, we expect all such applications would contain clinical data. The standard cost application

categories with clinical data that FDA does publish each year are as follows:

(1) New drug applications (NDAs) for a new molecular entity (NME) with clinical data and

(2) Biologic license applications (BLAs).

The worksheets for standard costs for FY 2009, the latest year for which standard cost data are available, show a standard cost of $4,021,000 (rounded to the nearest thousand dollars) for an NDA with clinical data and $3,530,000 (rounded to the nearest thousand dollars) for a BLA. Based on these standard costs, the total cost to review the 55 applications in these 2 categories in FY 2009 (24 BLAs and 31 NDAs with clinical data) was $209,371,000. (Note: no investigational new drug (IND) review costs are included in this amount; they will be calculated separately and added in the next paragraph.) Records acquired from CDER and CBER by the Office of Policy, Planning and Budget (OPPB), Economics Staff, indicate that a total of 17 of these applications (8 NDAs [excluding the President's Emergency Plan for Aids Relief NDAs] and 9 BLAs) received priority review, which would mean that the remaining 38 received standard reviews. Because a priority review compresses a review that ordinarily takes 10 months into 6 months, OPPB estimates that a multiplier of 1.67 (10 months divided by 6 months) should be applied to non-priority review costs in estimating the effort and cost of a priority review as compared to a standard review. This multiplier is consistent with published research on this subject. In the article "Developing Drugs for Developing Countries," published in *Health Affairs*, vol. 25, Number 2, in 2006, the analysis by David B. Ridley, Henry G. Grabowski, and Jeffrey L. Moe supports a priority review multiplier in the range of 1.48 to 2.35. The multiplier derived by FDA falls well below the midpoint of this range. Using FY 2009 figures, the costs of a priority and standard review are estimated using the following formula:

$(17a \times 1.67) + (38a) = \$209{,}371{,}000$

where "a" is the cost of a standard review and "a" times 1.67 is the cost of a priority review. Using this formula, the cost of a standard review for NMEs is calculated to be $3,154,000 (rounded to the nearest thousand dollars) and the cost of a priority review for NMEs is 1.67 times that amount, or $5,267,000 (rounded to the nearest thousand dollars).

Next, the cost of the IND review phase for these applications is calculated. The standard lifetime cost of reviewing a drug IND in FY 2009 was $291,000 (rounded to the nearest thousand dollars). The standard lifetime cost of a biologic IND review in FY 2009 was $860,000 (rounded to the nearest thousand dollars). Because there were 8 priority NDAs and 9 priority BLAs received in FY 2009, the following formula estimates the average cost of the IND review phase of an application:

$(8 \text{ NDAs} \times \$291{,}000) + (9 \text{ BLAs} \times \$860{,}000) = \$10{,}068{,}000$

This is the full cost of the IND review associated with the 17 priority review applications received in FY 2009. Dividing $10,068,000 by 17 (the total number of priority review applications received in FY 2009), yields an average IND review phase cost of $592,000 (rounded to the nearest thousand dollars) per priority review application.

Adding the cost of the NDA/BLA priority review calculated previously, $5,267,000, to the cost of the IND review phase of $592,000, results in an estimated average cost for priority review for an application received in FY 2009 of $5,859,000.

Section 524 of the FD&C Act specifies that the fee amount should be based on the average cost incurred by the Agency for a priority review in the previous FY. FDA is setting fees for FY 2011, and the previous FY is FY 2010. However, the FY 2010 submission cohort has not been closed out yet, and the cost data for FY 2010 are not complete. The latest year for which FDA has data is FY 2009. Accordingly, FDA will adjust the previously mentioned FY 2009 cost figure by the average amount by which FDA's average salary and benefit costs increased in the 5 years prior to FY 2011, to adjust the FY 2009 amount for cost increases in FY 2010. That figure, published in the **Federal Register** of August 4, 2010 (75 FR 46952 at 46954), which set Prescription Drug User Fees for FY 2011, is 4.53 percent. Increasing the FY 2009 average priority review cost figure of $5,859,000 by 4.53 percent results in an estimated cost of $6,124,000 (rounded to the nearest thousand dollars).

FDA will deduct from this amount the PDUFA fee that must also be paid in addition to the priority review fee when an NDA or BLA with clinical data is submitted in FY 2011. That amount, also published in the **Federal Register** of August 4, 2010 (75 FR 46952 at 46957), which set PDUFA fees for FY 2011, is $1,542,000. The difference, rounded to the nearest thousand dollars, is $4,582,000. This is the priority review user fee amount for FY 2011 that must be submitted with a priority review voucher in FY 2011, in addition to any PDUFA fee that is required for such an application.

III. Priority Review Fee Schedule for FY 2011

The fee rate for FY 2011 is set out in table 1 of this document.

TABLE 1.

FEE CATEGORY	FEE RATE FOR FY 2011
APPLICATIONS SUBMITTED WITH A PRIORITY REVIEW VOUCHER	
In addition to the normal PDUFA Fee	$4,582,000

IV. Implementation of Priority Review Fee

Under section 524(c)(4)(A) of the FD&C Act, the priority review user fee is due upon submission of the application for which the priority review voucher is used. Section 524(c)(4)(B) specifies that the application will be considered incomplete if the priority review user fee and all other applicable user fees are not paid in accordance with FDA payment procedures. FDA may not grant a waiver, exemption, reduction, or refund of any fees due and payable under this section of the FD&C Act, and FDA may not collect priority review voucher fees prior to a relevant appropriation for fees for that FY. Beginning with FDA's appropriation for FY 2009, the annual appropriation language states specifically that "priority review user fees authorized by 21 U.S.C. 360n (section 524 of the FD&C Act) may be credited to this account, to remain available until expended." (Public Law 111–8, Section 5, Division A, Title VI).

The priority review fee established in the new fee schedule must be paid for any application that is received after September 30, 2010, and submitted with a priority review voucher. This fee must be paid in addition to any other fee due under PDUFA. Payment must be made in U.S. currency by check, bank draft, or U.S. postal money order payable to the order of the Food and Drug Administration. The user fee identification (ID) number should be included on the check, followed by the words "Priority Review". Payments can be mailed to: Food and Drug Administration, P.O. Box 70963, Charlotte, NC 28272–0963.

If checks are sent by a courier that requests a street address, the courier can deliver the checks to: Wells Fargo QLP Lockbox D1113–022, Attn: Food and Drug Administration Lockbox 70963, 1525 West WT Harris Blvd., Charlotte,

NC 28262. (Note: This Wells Fargo address is for courier delivery only.) The FDA post office box number (P.O. Box 70963) must be written on the check. The tax identification number of the Food and Drug Administration is 53–0196965.

Wire transfer payments may also be used. Please reference your unique user fee ID number when completing your transfer. The originating financial institution may charge a wire transfer fee. Please ask your financial institution about the fee and include it with your payment to ensure that your fee is fully paid. The account information is as follows: New York Federal Reserve Bank, U.S. Dept. of Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Acct. No.: 75060099, Routing No.: 021030004, SWIFT: FRNYUS33, Beneficiary: FDA, 1350 Piccard Dr., Rockville, MD 20850.

Application fees can also be paid online with an electronic check (ACH). FDA has partnered with the U.S. Department of Treasury to utilize Pay.gov, a Web-based payment application, for online electronic payment. The Pay.gov feature is available on FDA's Web site after the user fee ID number is generated.

Dated: September 7, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–22760 Filed 9–10–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Prions, HCV and Beta-Lactams.

Date: September 23–24, 2010.

Time: 10 a.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: Rolf Menzel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@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.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Dental and Oral Sciences.

Date: October 4, 2010.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yi-Hsin Liu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: October 6, 2010.

Time: 8 a.m. to 6 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: Yi-Hsin Liu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurodifferentiation, Plasticity, and Regeneration Study Section.

Date: October 6–7, 2010.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Savoy Suites Hotel, 2505 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, 301–435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: October 7, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, 301–435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowship: Biomedical Imaging and Bioengineering.

Time: 11:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dharam S Dhindsa, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892,(301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR09–057: Improving Interventions for Communication Disorders.

Date: October 18, 2010.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications, JW Marriott San Francisco Union Square, 500 Post Street corner of Post and Mason, San Francisco, CA 94102.

Contact Person: Eugene Carstea, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 408–9756, *carsteae@csr.nih.gov.*

Name of Commitee: Center for Scientific Review Special Emphasis Panel PAR09–056: Improving Intervention Possibilities for Communication Disorders.

Date: October 18, 2010.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott San Francisco Union Square, 500 Post Street corner of Post and Mason, San Francisco, CA 94102.

Contact Person: Eugene Carstea, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 408–9756, *carsteae@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Old mice.

Date: October 18, 2010.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 3222, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: James Harwood, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, 301–435–1256, *harwoodj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR–08–076: Community Participation Research.

Date: October 19, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Karin F. Helmers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301–254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biomedical Computing and Health Informatics Study Section.

Date: October 19, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Melinda Jenkins, PhD, Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.

Date: October 19–20, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Jacinta Bronte-Tinkew, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 435–1503, *brontetinkewjm@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: September 2, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22683 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Dental and Craniofacial Research Council, September 27, 2010, 8:30 a.m. to September 27, 2010, 3 p.m., National Institutes of Health, Building 31C, 31 Center Drive, 6th Floor, 10, Bethesda, MD 20892 which was published in the **Federal Register** on August 19, 2010, 75 FRN 51275.

The agenda of the meeting of the Council has been changed so that the closed session will begin at 9:30 a.m. and the open session will begin at 11:15 a.m. The meeting is partially Closed to the public.

Dated: September 2, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22682 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–08–224: Systems Sciences.

Date: October 8, 2010.

Time: 10:30 a.m. to 1 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: Tomas Drgon, PhD, Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, Bethesda, MD 20892, 301–435–1017.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Special Topics: Topics in Bacterial Pathogenesis.

Date: October 14–15, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Rolf Menzel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: October 20, 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: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Health IT.

Date: October 20, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Melinda Jenkins, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group, Behavioral Genetics and Epidemiology Study Section.

Date: October 20–21, 2010.

Time: 8:30 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: Suzanne Ryan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Community Influences on Health Behavior.

Date: October 20–21, 2010.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Wenchi Liang, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Medical Imaging.

Date: October 21–22, 2010.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Leonid V Tsap, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, (301) 435–2507, *tsapl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Risk Prevention and Health Behavior.

Date: October 21–22, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611.

Contact Person: Claire E. Gutkin, PhD, MPH., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Clinical and Integrative Cardiovascular Sciences Study Section.

Date: October 21–22, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Russell T Dowell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Dissemination and Implementation Research in Health Study Section.

Date: October 21, 2010.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, 999 California Street, San Francisco, CA 94108.

Contact Person: Jacinta Bronte-Tinkew, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *brontetinkewjm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Neuro-Oncology.

Date: October 21, 2010.

Time: 2 p.m. to 5 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: Syed M Quadri, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–10–169: Academic Industrial Partnerships.

Date: October 21, 2010.

Time: 12 p.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: Antonio Sastre, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, MSC 7412, Bethesda, MD 20892, 301–435–2592, *sastrea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Sensory, Motor, and Cognitive Neuroscience.

Date: October 22, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Yuan Luo, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207 MSC 7846, Bethesda, MD 20892–7846, 301–827–7915, *luoy2@mail.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: *September 7, 2010.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22714 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Enabling Bioanalytical and Imaging Technologies.

Date: October 1, 2010.

Time: 10 a.m. to 2 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: Maria DeBernardi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: October 4, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Washington DC Downtown, 1201 K Street, NW., Washington, DC 20005.

Contact Person: Biao Tian, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

Date: October 7–8, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis Hotel, 400 West Broadway, San Diego, CA 92101.

Contact Person: Vonda K. Smith, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7801, Bethesda, MD 20892, 301–435–1789, *smithvo@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: October 14–15, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Guangyong Ji, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@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: September 7, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–22713 Filed 9–10–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3314–EM; Docket ID FEMA–2010–0002]

North Carolina; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of North Carolina (FEMA–3314–EM), dated September 1, 2010, and related determinations.

DATES: *Effective Date:* September 2, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of North Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of September 1, 2010.

Brunswick, Carteret, Duplin, Edgecombe, Greene, Halifax, Hertford, Jones, Lenoir, Martin, Northampton, and Pender Counties for Public Assistance (Category B), including direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22766 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3314–EM; Docket ID FEMA–2010–0002]

North Carolina; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of North Carolina (FEMA–3314–EM), dated September 1, 2010, and related determinations.

DATES: *Effective Date:* September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 1, 2010, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the State of North Carolina resulting from Hurricane Earl beginning on September 1, 2010, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* ("the Stafford Act"). Therefore, I declare that such an emergency exists in the State of North Carolina.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael Bolch, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of North Carolina have been designated as adversely affected by this declared emergency:

Beaufort, Bertie, Camden, Chowan, Columbus, Craven, Currituck, Dare, Gates, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22765 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1924–DR; Docket ID FEMA–2010–0002]

Nebraska; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA–1924–DR), dated July 15, 2010, and related determinations.

DATES: *Effective Date:* August 29, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 29, 2010.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22769 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1931–DR; Docket ID FEMA–2010–0002]

Texas; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–1931–DR), dated August 3, 2010, and related determinations.

DATES: *Effective Date:* September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 3, 2010.

Calhoun County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22770 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1932–DR; Docket ID FEMA–2010–0002]

Kansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1932–DR), dated August 10, 2010, and related determinations.

DATES: *Effective Date:* September 2, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 10, 2010.

Cheyenne, Decatur, Elk, Jackson, McPherson, Sheridan, and Wilson Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22767 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1924–DR; Docket ID FEMA–2010–0002]

Nebraska; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA–1924–DR), datedJuly 15, 2010, and related determinations.

DATES: *Effective Date:* September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery Directorate, Federal Emergency Management

Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of July 15, 2010.

Adams, Buffalo, Dawes, Dawson, Hooker, Jefferson, Sheridan, and Thurston Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22768 Filed 9–10–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–86]

Notice of Submission of Proposed Information Collection to OMB Housing Choice Voucher Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Public Housing Authorities (PHA) apply for funding to assist very low-income families to lease or purchase housing. PHAs maintain records on participant eligibility, unit acceptability, lease and/or housing assistance payments, and budget and payment documentation. In some cases PHAs voluntarily divest their voucher programs to a receiving PHA. PHAs may also project-base a portion of their vouchers or use their vouchers under the Homeownership Option.

DATES: *Comments Due Date: October 13, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0169) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Housing Choice Voucher Program.

OMB Approval Number: 2577–0169.

Form Numbers: HUD–52515, HUD–52667, HUD–52580, HUD–52580–A, HUD–52681, HUD–52681–B, HUD–52672, HUD–52517, HUD–52646, HUD–52665, HUD52641, HUD52641–A, HUD–52642, HUD–52642–A, HUD52649, HUD–52531A AND B, HUD–52530A, HUD–52530B, HUD–52530C, HUD–52578B.

Description of the Need for the Information and its Proposed Use: Public Housing Authorities (PHA) apply for funding to assist very low-income families to lease or purchase housing. PHAs maintain records on participant eligibility, unit acceptability, lease and/or housing assistance payments, and budget and payment documentation. In some cases PHAs voluntarily divest their voucher programs to a receiving PHA. PHAs may also project-base a portion of their vouchers or use their vouchers under the Homeownership Option.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	495,450	3,037,954		6.13		1,238,448

Total Estimated Burden Hours: 1,238,448.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 7, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–22684 Filed 9–10–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5380–N–29]

Notice of Submission for Extension of a Currently Approved Information Collection: Comment Request; Owner Certification With HUD's Tenant Eligibility and Rent Procedures

AGENCY: Office of Program Systems Management, HUD.

ACTION: Notice extension of a currently approved information collection.

SUMMARY: The information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 12, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Gail Williamson, Director, Office of Multifamily Housing Assistance Policy Division, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3000 x2473 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting a revision of the currently approved information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the extension of the approved collection of information to: (1) Evaluate whether the collection remains necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (2) Evaluate accuracy of the agency's estimate of the burden of the collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Owner Certification with HUD's Tenant Eligibility and Rent Procedures.

OMB Control Number: 2502–0204.

Description of the need for the information and proposed use: The Department needs to collect this information in order to establish an applicant's eligibility for admittance to subsidized housing, specify which eligible applicants may be given priority over others, and prohibit racial discrimination in conjunction with selection of tenants and unit assignments. The Department must specify tenant eligibility requirements as well as how tenants' incomes, rents and assistance must be verified and computed so as to prevent the Department from making improper payments to owners on behalf of assisted tenants. The Department also must provide annual reports to Congress and the public on the race/ethnicity and gender composition of subsidy program beneficiaries. This information is essential to maintain a standard of fair practices in assigning tenants to HUD Multifamily properties.

Agency form numbers, if applicable: HUD–50059, HUD–50059–A, HUD–9887/9887–A, HUD–27061–H, HUD–90100, HUD–90101, HUD–90102, HUD–90103, HUD–90104, HUD–90105-a, HUD–90105–b, HUD–90105–c, HUD–90105–d, HUD–90106, HUD–91066, HUD–91067 and new forms, HUD–90011 (Enterprise Income Verification (EIV) System Multifamily Housing Coordinator Access Authorization Form) and HUD–90012 (Enterprise Income Verification (EIV) System User Access Authorization Form).

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the annual total number of hours needed to prepare the information collection is 1,354,679 number of respondents is 2,184,726, frequency response is 1 per annum, and the total hours per respondent is 1.96.

Status of the proposed information collection: This is a revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 7, 2010.

Kevin Perkins,

Acting Deputy Assistant Secretary for Operations.

[FR Doc. 2010–22685 Filed 9–10–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR—5383–N–20]

Notice of Proposed Information Collection for Public Consolidated Public Housing Certificate of Completion

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 12, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Leroy McKinney, Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410–5000; telephone 202-402-5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinneyJr@hud.gov,* Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, (202) 402-4109, for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will request an extension of

and submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Consolidated Public Housing Certificate of Completion.

OMB Control Number: 2577–0021.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) are required to certify to HUD that contract requirements and standards have been satisfied in a specific project development and that HUD may authorize payment of funds due the contractor/developer.

Agency form numbers, if applicable: None.

Members of affected public: State, Local or Tribal Governments.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 58 respondents reporting, one hour average per response, 58 hours for a total reporting burden.

Status of the proposed information collection: Extension of a previously approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 3, 2010.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives.

[FR Doc. 2010–22686 Filed 9–10–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–8327–CMG61]

Proposed Information Collection; The State of Ecosystem Services Implementation Survey

AGENCY: United States Geological Survey (USGS), Interior.

ACTION: Notice; request for comments.

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. Please note that we 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.

DATES: To ensure that we are able to consider your comments to this IC, we must receive them on or before November 12, 2010.

ADDRESSES: Send your comments and suggestions on this IC to Phadrea Ponds, Information Collection Clearance Officer, U.S. Geological Survey, 2150–C Centre Avenue, Fort Collins, CO 80526 (mail); *pondsp@usgs.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, please contact USGS, Rudy Schuster by mail at 2150–C Centre Avenue, Fort Collins, CO 80526 or *schusterr@usgs.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Abstract

Ecosystem goods and services are defined by ecologists as the biophysical processes that give rise to social benefits. For example, in ecology, processes such as nutrient cycling, atmospheric regulation, pollination, and seed dispersal are considered ecosystem services. Indirect benefits are also considered; for example, recreation, avoided flood damage, and aesthetic benefits are also ecosystem services. In short, the benefits associated with an ecosystem service are the value that humans derive from that service. The objectives of this survey are to illustrate the various approaches that are being used to formulate ecosystem services projects and the state-of-the-art processes through which projects are implemented. The survey will gather information concerning: methods used in ecosystem services projects, motivations for conducting projects, degree of project implementation, management actions resulting from project results (for completed projects), and characteristics of projects that have successfully implemented ecosystem services concepts.

II. Data

OMB Control Number: 1028—NEW.

Title: The State of Ecosystem Services Implementation.

Type of Request: This is a new collection.

Affected Public: Individuals who are (currently or recently have been) engaged in conducting ecosystem services research projects; potential respondents will include: federal employees, non-governmental organization employees, and academic researchers. The population will include people from the United States as well as other nations.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Estimated Annual Number of Respondents: 350.

Estimated Total Annual Responses: 350.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 117 hours.

III. Request for Comments

We invite comments concerning this IC on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. 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 publically available at anytime. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that will be done.

Dated: August 31, 2010.

Anne Kinsinger,

Associate Director for Biology, U.S. Geological Survey.

[FR Doc. 2010–22669 Filed 9–10–10; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–R–2010–N158; 20131–1265–2CCP S3]

Little River National Wildlife Refuge, McCurtain County, OK; Revised Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a revised comprehensive conservation plan (CCP) and environmental assessment (EA) for Little River National Wildlife Refuge, located in McCurtain County, Oklahoma. We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, please send your written comments by March 14, 2011. We will announce opportunities for public input in local news media throughout the CCP process.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

E-mail: rob_campellone@fws.gov. Include "Little River National Wildlife Refuge CCP NOI" in the subject line of the message.

Fax: Attn: Rob Campellone, Chief, Division of Planning, 505–248–6803.

U.S. Mail: Rob Campellone, Chief, Division of Planning, P.O. Box 1306, Albuquerque, NM 87103–1306.

In-Person Drop-off: You may drop off comments during regular business hours at the Refuge Headquarters located at 635 South Park Drive, Broken Bow, OK 74728.

FOR FURTHER INFORMATION CONTACT: Rob Campellone, Chief, Division of Planning, Telephone: 505–248–6631; Fax: 505–248–6803; e-mail: *rob_campellone@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a revised CCP for Little River NWR (Refuge), located in McCurtain County, OK. This notice complies with our CCP policy to (1) Advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this Refuge, and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide Refuge Managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act, as amended.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides participation opportunities for Tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of Little River NWR.

We will conduct the environmental review of this project and develop an EA in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Little River National Wildlife Refuge

Little River National Wildlife Refuge is located in McCurtain County, Oklahoma, and encompasses 13,660 acres of bottomland hardwood forests. The Refuge is approximately 96 percent forested with small areas of open water, shrub swamps, beaver ponds, and roads. The plant communities are complex and reflect small elevation changes, complex soils and hydrologic regimes, and other ecosystem processes that have created and maintained a highly diverse plant community across the Refuge. The forested matrix contains mostly natural second- and third-growth bottomland hardwood forests, with inclusions of loblolly pine components on high terraces and stringers of riparian forests along the rivers, cypress swamps and cypress-lined oxbow lakes, and buttonbush shrub swamps. The canopy trees are roughly 50–70 years old with scattered patches of much older trees where topography and drainage patterns precluded timber harvest prior to the Refuge's establishment.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. We have briefly summarized these issues below. During public scoping, we may identify additional issues.

Habitat Issues—Habitat alteration, fragmentation, and loss of the bottomland hardwood forest and freshwater ecosystems.

The bottomland hardwood forest ecosystem habitat located in the Upper West Gulf Coastal Plain has been influenced through human disturbances (development and/or exploitation) and faces rapid alterations and disturbances as a consequence of climate change. These impacts are expected to stress and alter the bottomland hardwood forest ecosystem utilized by trust wildlife resources. Long-term unmitigated impacts are expected to create population and habitat shifts, increase

invasive species, and change forest productivity.

Human activities causing pollution and water quantity and quality degradation, along with habitat fragmentation and loss, have caused environmental changes in freshwater systems. The Little River drains a watershed of approximately 2,225 square miles and provides habitat for the Federally listed Ouachita rock pocketbook mussel (*Arkanasii wheeleri*), Scaleshell mussel (*Leptodea leptodon*), and Winged mapleleaf mussel (*Quadrula fragosa*), along with a host of other imperiled freshwater species. Human-created stressors, along with climate change stressors, can negatively affect the biodiversity of freshwater ecosystems. These impacts are expected to alter the freshwater ecosystem utilized by USFWS trust resources and the human population.

Wildlife Issues—Feral hog management and migratory birds.

The presence of feral hogs (*Sus scrofa*) results in substantial damages to the natural resources on the refuge. The detrimental effects of free-ranging feral hogs can be found throughout the entire refuge, as population numbers have increased without a control mechanism. Feral hogs are highly adaptable, have high reproductive capabilities, and can be found in a wide range of habitat types. Feral hogs cause widespread impacts to the refuge habitat, compete with native wildlife species for food resources, and can transmit infectious diseases to humans, domestic livestock, and native wildlife species.

Trust migratory bird species that the U.S. Fish and Wildlife Service is mandated to protect are under pressure and at risk from a number of stressors (*e.g.,* habitat loss and degradation, development, pollution, and invasive species), in addition to climate change. Evidence suggests that climate change is affecting the distribution, abundance, and population dynamics of a wide range of migratory bird species (forest dwelling and waterfowl) that rely on a bottomland hardwood forest ecosystem to provide essential habitat for survival.

Public Use Opportunities and Access—Enhancing Wildlife Dependent Recreation Opportunities.

The bottomland hardwood forest protected by the Little River NWR provides the public with quality recreational opportunities to learn about and enjoy the ecological diversity and history of the refuge in a largely natural setting. Improving opportunities for wildlife-dependent recreational uses (six priority public uses) that are compatible with the purpose of the refuge will promote broader community support and understanding of the value and need for wildlife conservation and protection.

Facilities—Public Contact Station.

The refuge receives over 10,000 visitors annually, and visitor use continues to rise as the public becomes more aware of the wide variety of wildlife-dependent recreational opportunities provided by the refuge. A public contact station is needed to provide facilities to enhance the public's experience of nature and the great outdoors and to educate the public about the mission of the National Wildlife Refuge System and the role of Little River NWR in achieving it.

Public Meetings

We will give the public an opportunity to provide input at one or more public meetings. You may obtain the schedule from the planning team leader or project leader (*see* **ADDRESSES**). You may also send comments anytime during the planning process by mail, e-mail, or fax (*see* **ADDRESSES**). There will be additional opportunities to provide public input once we have prepared a draft CCP.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 11, 2010.

Joy E. Nicholopoulos,

Regional Director, U.S. Fish and Wildlife, Region 2.

[FR Doc. 2010–22732 Filed 9–10–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2010–N169; 80230–1265–0000–S3]

Sonny Bono Salton Sea National Wildlife Refuge Complex (Sonny Bono Salton Sea National Wildlife Refuge and Coachella Valley National Wildlife Refuge), Imperial and Riverside Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for the Sonny Bono Salton Sea National Wildlife Refuge (NWR) Complex, which consists of the Sonny Bono Salton Sea NWR located in Imperial County, California, and the Coachella Valley NWR located in Riverside County, California. We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process.

DATES: To ensure consideration, we must receive your written comments by November 12, 2010.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

E-mail: Victoria_Touchstone@fws.gov. Include "Sonny Bono Salton Sea CCP" in the subject line of the message.

Fax: Attn: Victoria Touchstone, (760) 930–0256.

U.S. Mail: Victoria Touchstone, U.S. Fish and Wildlife Service, San Diego NWRC, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011.

In-Person Drop-off: You may drop off comments at the Sonny Bono Salton Sea NWR Office between 8 a.m. to 3 p.m.; please call (760) 348–5278 for directions.

FOR FURTHER INFORMATION CONTACT: Victoria Touchstone, Refuge Planner, at 760–431–9440, extension 349, or Chris Schoneman, Project Leader, at 760–348–5278. Further information may also be found at *http://www.fws.gov/saltonsea/.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for the Sonny Bono Salton Sea NWR Complex, including the Sonny Bono Salton Sea NWR in Imperial County, CA, and the Coachella Valley NWR in Riverside County, CA. This notice complies with our CCP policy to (1) Advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge complex, and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We intend to review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the National Wildlife Refuge System was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the National Wildlife Refuge System mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals, objectives, and strategies that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Our CCP process provides opportunities for participation by Tribal, State, and local governments; agencies; organizations; and the public. We will be contacting identified stakeholders and individuals at this time for initial input. If you would like to meet with planning staff or would like to receive periodic updates, please contact us (*see* **ADDRESSES** section). We anticipate holding public meetings for initial comments and when alternative management scenarios have been identified. At this time we encourage comments in the form of issues, concerns, ideas, and suggestions for the future management of the Sonny Bono Salton Sea NWR and the Coachella Valley NWR.

We will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 et seq.); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Sonny Bono Salton Sea National Wildlife Refuge Complex

The Sonny Bono Salton Sea NWR Complex consists of the Sonny Bono Salton Sea NWR and the Coachella Valley NWR. The Sonny Bono Salton Sea NWR was established as a 32,766-acre sanctuary and breeding ground for birds and other wildlife in 1930 (Executive Order 5498). Additional leased lands have been added to the Refuge under the authorities of the Migratory Bird Conservation Act (16 U.S.C. 715d), "for use as an inviolate sanctuary, or for any other management propose, for migratory birds" and the Lea Act (16 U.S.C. 695), "for the management and control of migratory waterfowl, and other wildlife." Today, with the original Refuge lands covered by the waters of the Salton Sea, management activities are focused on about 2,000 acres of primarily leased land. Approximately 920 acres consist of managed wetlands that support resident and migratory birds, and another 940 acres are farmed to provide forage for wintering geese and other migratory birds. Existing public uses include wildlife observation, photography, interpretation, environmental education, waterfowl hunting, and scientific research.

The Coachella Valley NWR was established in 1985 under the authorities of the Endangered Species Act of 1973 (16 U.S.C. 1534), "to conserve (A) fish or wildlife which are listed as endangered species or threatened species or (B) plants." The 3,709-acre Refuge, which is part of the larger Coachella Valley Preserve, protects the federally listed endangered Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*) and threatened Coachella Valley fringe-toed lizard (*Uma inornata*), as well as other desert-dwelling species adapted to living in the sand dune habitat of the Coachella Valley. Access onto the Refuge is limited to a designated corridor for hiking and equestrian use.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities for each Refuge that we may address in the CCP. Additional issues, concerns, and opportunities may be identified as a result of public scoping. For the Sonny Bono Salton Sea NWR, preliminary issues include: Increasing the productivity of existing managed wetlands to support migratory waterfowl; adapting to changing conditions associated with a shrinking Salton Sea (*e.g.,* conversion of habitat types, dust management, degraded water quality); predation in seabird nesting areas; availability of adequate nesting habitat for seabirds, particularly gull-billed terns (*Gelochelidon nilotica vanrossemi*); and the effects of climate change on Refuge resources.

For the Coachella Valley NWR, these issues include: Habitat and species management; control of invasive weedy species; effects of windblown sand on adjacent properties; public use; and impacts to Refuge resources as a result of illegal motorized vehicle activity.

Public Meetings

We will give the public an opportunity to provide input at a public meeting (or meetings) to be held in September 2010. You can obtain the schedule from the Refuge Planner or Project Leader (*see* **FOR FURTHER INFORMATION CONTACT**). You may also submit comments or request a meeting during the planning process by mail, e-mail, or fax (*see* **ADDRESSES**). There will be additional opportunities to provide public input once we have prepared a draft CCP.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 19, 2010.

Tom McCabe,

Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2010–22731 Filed 9–10–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[LLCOF0000 L14300000.FX0000]

Notice of Intent To Prepare an Environmental Assessment To Amend the Resource Management Plan for the San Luis Resource Area for Geothermal Leasing in Colorado's San Luis Valley

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) San Luis Valley Public Lands Center, Monte Vista, Colorado, intends to prepare an Environmental Assessment (EA) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

The EA will analyze the BLM proposal to amend the San Luis Resource Area (SLRA) Resource Management Plan (RMP) of September 1991, to allocate lands as closed and open to consideration for geothermal leasing and under what conditions.

DATES: This notice initiates the public scoping process for the EA and RMP amendment. Comments on issues may be submitted in writing by October 13, 2010. The date(s) and location(s) of any scoping meetings will be announced at least 15 calendar days in advance, through local media, newspaper, and the BLM Web site at: *http://www.blm.gov/co/st/en/fo/slvplc/Geothermal_Leasing.html.* In order to be included in the EA and RMP amendment, all comments must be received prior to the close of the scoping period or 30 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation upon publication of the EA and RMP amendment.

ADDRESSES: You may submit comments related to the EA and proposed RMP amendment for Geothermal Leasing in the BLM SLRA in Colorado's San Luis Valley by any of the following methods.

- *Web site: http://www.blm.gov/co/st/en/fo/slvplc/Geothermal__Leasing.html.*
- *E-mail: slvplc_comments@blm.gov.*
- *Fax:* (719) 852–6250.
- *Mail:* BLM, San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144.

Documents pertinent to this proposal may be examined at the San Luis Valley Public Lands Center.

FOR FURTHER INFORMATION CONTACT: Joseph Vieira, Renewable Energy Team Project Manager, telephone (719) 852–6213; address BLM, San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144; e-mail *slvplc_comments@blm.gov.*

SUPPLEMENTARY INFORMATION: The Programmatic Environmental Impact Statement (EIS) for Geothermal Leasing in the Western United States analyzed geothermal potential, leasing alternatives, and leasing stipulations for subsurface mineral estate administered by the BLM in Colorado, including lands within the SLRA RMP. The Record of Decision (ROD) for Geothermal Leasing in the Western United States amended 14 RMPs in Colorado, but did not amend the SLRA RMP due to an administrative oversight. The ROD for the Programmatic EIS can be found at the following Web site: *http://www.blm.gov/wo/st/en/frog/energy/geothermal/geothermal.nationwide.* The BLM proposes to amend the SLRA RMP using the NEPA analysis in the Programmatic EIS to support its decision. Review and amendment of the SLRA RMP is also necessary due to new information concerning sensitive species that are not analyzed in the existing RMP. This EA will inform the BLM SLRA RMP amendment decisions to establish resource management consistency, including stipulations and Best Management Practices, in future geothermal leasing in the SLRA.

While there is a history of geothermal leasing on lands administered by the BLM in the SLRA, the San Luis Valley Public Lands Center has not received any new nominations for competitive geothermal leasing to date.

Under the 1991 SLRA RMP, 617,380 acres of the mineral estate within the SLRA were identified as having potential for geothermal resources and allocated as open to consideration for geothermal leasing. Additionally, under the 1991 SLRA RMP the BLM established the following nondiscretionary closures, denying the development of fluid minerals, including geothermal resources:

- 320 acres within the town of Del Norte.
- 40 acres within the town of South Fork.
- 360 acres under the Recreation and Public Purpose lease to the City of Monte Vista for a city park.
- 840 acres within the Pike Stockade Historic Site.
- 3,300 acres designated as BLM wilderness.
- 16,794 acres within BLM wilderness study areas.

There are no Federal geothermal leases in effect in the planning area at this time. The issuance of a geothermal lease does not authorize any land disturbance, development, or use of the surface of the leased lands without further application, environmental review, and approval by the BLM at each stage. Rather, a lease provides a non-exclusive right to future exploration and an exclusive right to produce and use the geothermal resources within the lease area, subject to existing laws, regulations, formal orders, terms, conditions, and stipulations in or attached to the lease form, or included as conditions of approval to permits.

The purpose of this public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for amending the RMP to adopt new stipulations and other conservation measures, and deciding whether, and under what conditions, to issue geothermal leases in the SLRA. This EA and RMP amendment will also serve to correct an administrative error in which the BLM SLRA was not included in the 2008 ROD document associated with the Programmatic EIS for geothermal leasing in the Western United States. This EA and RMP amendment will specifically address development of adequate protective measures and stipulations for the following:

- Geothermal resources and existing uses.
- Water resources.
- Cultural resources.
- Federally listed threatened and endangered species as well as candidate species for Federal listing.
- Species included in the BLM Colorado sensitive species list (which includes the State of Colorado, Department of Natural Resources threatened and endangered species).
- Other species of concern.

Currently, the BLM has identified the following preliminary issues:

- Impacts to water resources.
- Impacts to private and commercial geothermal uses.
- Necessary conservation measures for listed and sensitive plant and animal species and habitats.
- Necessary stipulations and potential impacts to cultural resources.
- Impacts to known geothermal resources and features in and near the potential lease areas.
- Demand for renewable energy and local economic impacts.
- Access to and across private lands.
- Impacts to critical big game winter range and other wildlife habitat.

• Visual impacts from potential development.

• Cumulative impacts associated with geothermal leasing, including the potential for exploration and development operation.

The BLM will use a combination of scoping periods, public meetings, and the NEPA process to satisfy the public involvement process required by Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f)) as provided for in 36 CFR 800.2(d)(3). Native American Tribal consultations will be conducted in accordance with policy, and Tribal concerns will be given due consideration, including impacts on Indian trust assets. Federal, state, and local agencies, along with other stakeholders that may be interested or affected by the BLM's decision on this project, are invited to participate in the scoping process and, if eligible, may request or be contacted by the BLM to participate as a cooperating agency. Agencies or organizations with technical expertise or jurisdictional authority will be invited to participate as cooperating agencies during the NEPA analysis and environmental review.

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the resource issues and concerns identified during public scoping. The planning process will include specialists with expertise in rangeland management, minerals and geology, forestry, outdoor recreation, law enforcement, archaeology, botany, wildlife, fisheries, lands and realty, hydrology, soils, vegetation, and fire. Notification of the planning process will be sent to the Governor of Colorado, county commissioners, local tribes and potentially affected members of the public. The public is encouraged to help identify questions and concerns during the scoping phase.

By this notice, the BLM is complying with requirements in 43 CFR 1610.2(c) to notify the public of potential amendments to the existing SLRA RMP. The BLM land use planning regulations require the BLM to publish, and provide for public review of, the proposed planning criteria that will guide the RMP amendment process. Planning criteria are the constraints, standards, and guidelines that determine what the BLM will or will not consider during its planning process. As such, they establish parameters and help focus analysis of the issues identified in scoping and structure the preparation of the EA and proposed RMP amendment. The BLM welcomes public comment on the following proposed planning criteria,

1. The BLM will continue to manage the SLRA in accordance with FLPMA (43 U.S.C. 1701. *et seq.*), other applicable laws and regulations, and all existing public land laws.

2. The BLM will use a collaborative, multi-jurisdictional approach with local, state, tribal, and Federal agencies to jointly determine the desired future condition of public lands and provide consistency with their existing plans and policies, to the extent that those plans and policies are consistent with Federal law governing the administration of public land.

3. The BLM will limit its amendment of the RMP to geothermal resource leasing and development issues and will not address management of other resources. The BLM will consider and analyze the impacts from this increased use on other BLM-managed resource values.

4. The BLM will address the socioeconomic impacts of the alternatives.

5. The amendment process will follow the FLPMA planning process and include an EA that will comply with NEPA standards, and an EIS, if a Finding of No Significant Impact cannot be reached.

6. The BLM will consider environmental protection and energy production as both are desirable and necessary objectives of sound land management practices and not to be considered mutually exclusive priorities.

7. The BLM will prepare the EA in compliance with the Geothermal Steam Act, as amended, and the legislative directives set forth in the Energy Policy Act of 2005.

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 1501.7 and 43 CFR 1610.2.

John Mehlhoff,

Acting State Director.

[FR Doc. 2010–22737 Filed 9–10–10; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 L12200000.AL 0000]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will participate in a field tour of BLM-administered public lands on Friday, October 1, 2010, from 8 a.m. to 4:30 p.m. and will meet in formal session on Saturday, October 2, 2010, from 8 a.m. to 4:30 p.m. at the BLM Needles Field Office, 1303 S Highway 95, Needles, CA 92363.

Agenda topics will include updates by Council members and reports from the BLM District Manager and five field office managers. Final agenda items, including details of the field tour, will be posted on the BLM California state Web site at *http://www.blm.gov/ca/st/en/info/rac/dac.html.*

SUPPLEMENTARY INFORMATION: All Desert District Advisory Council meetings are open to the public. Public comment for items not on the agenda will be scheduled at the beginning of the meeting Saturday morning. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

While the Saturday meeting is tentatively scheduled from 8 a.m. to 4:30 p.m., the meeting could conclude prior to 4:30 p.m. should the Council conclude its presentations and discussions. Therefore, members of the public interested in a particular agenda item or discussion should schedule their arrival accordingly.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, External Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: David Briery, BLM California Desert District External Affairs (951) 697–5220.

Dated: August 31, 2010.

Teresa A. Raml,

District Manager.

[FR Doc. 2010–22678 Filed 9–10–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTM01000–L14300000.ET0000; MTM 79264]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Land and Minerals Management proposes to extend the duration of Public Land Order (PLO) No. 6861 for an additional 20-year term. PLO No. 6861 withdrew 20 acres of public land from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), to protect the educational and scientific values of the Rattler Gulch Limestone Cliffs Area of Critical Environmental Concern (ACEC). This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by December 13, 2010.

ADDRESSES: Comments and meeting requests should be sent to the Montana State Director, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101.

FOR FURTHER INFORMATION CONTACT: Lonna Sandau, BLM Missoula Field Office, 406–329–1093, or Sandra Ward, BLM Montana State Office, 406–896–5052.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 6861 (56 FR 26035–6 (1991)), will expire June 5, 2011, unless extended. The Bureau of Land Management (BLM) has filed an application to extend PLO No. 6861 for an additional 20-year term. The withdrawal was made to protect the Rattler Gulch Limestone Cliffs ACEC's educational and scientific values for the following-described land:

Principal Meridian, Montana

T. 11 N., R. 13 W.,
Sec. 4, SE¼SE¼SE¼;
Sec. 9, NE¼NE¼NE¼.

The area described contains 20.00 acres in Granite County.

The purpose of the proposed extension is to continue protection of the Rattler Gulch Limestone Cliffs ACEC's educational and scientific values.

The use of a right-of-way, interagency agreement, or cooperative agreement would not provide adequate protection.

There are no suitable alternative sites available.

No water will be needed to fulfill the purpose of the requested withdrawal extension.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM Montana State Director by December 13, 2010, at the address above.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Missoula Field Office, 3255 Fort Missoula Road, Missoula, Montana 59804 during regular business.

Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal extension must submit a written request to the BLM Montana State Director at the address above by December 13, 2010. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and in at least one local newspaper not less than 30 days before the scheduled date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Authority: 43 CFR 2310.3–1.

Christina Miller,

Acting Chief, Branch of Land Resources.

[FR Doc. 2010–22740 Filed 9–10–10; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–735]

In the Matter of Certain Flash Memory Chips and Products Containing the Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 6, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Spansion LLC of Sunnyvale, California. Letters supplementing the complaint were filed on August 17 and August 20, 2010. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain flash memory chips and products containing the same by reason of infringement of certain claims of U.S. Patent No. 7,018,922 ("the '922 patent"); U.S. Patent No. 6,900,124 ("the '124 patent"); U.S. Patent No. 6,459,625 ("the '625 patent"); U.S. Patent No. 6,369,416 ("the '416 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen R. Smith, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2746.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2010).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 7, 2010, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory chips and products containing the same that infringe one or more of claims 1–7 of the '922 patent; claims 1–10 of the '124 patent; claims 1–14 of the '625 patent; and claims 1–4 of the '416 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Spansion LLC, 915 DeGuigne Drive, P.O. Box 3453, Sunnyvale, CA 94088.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co., Ltd., 250, Taepyeongno 2-ga, Jung-gu, Seoul 100–742, South Korea.

Samsung Electronics America, Inc., 105 Challenger Road, Ridgefield Park, NJ 07660.

Samsung International, Inc., 10220 Sorrento Valley Road, San Diego, CA 92121.

Samsung Semiconductor, Inc., 3655 North First Street, San Jose, CA 95134.

Samsung Telecommunications America, LLC, 1301 E. Lookout Drive, Richardson, TX 75082.

Apple, Inc., 1 Infinite Loop, Cupertino, CA 95014.

Nokia Corp., Keilalahdentie 4, FIN 0045 Espoo, Finland.

Nokia Inc., 6000 Connection Drive, Irving, TX 75039.

PNY Technologies, Inc., 299 Webro Road, Parsippany, NJ 07054.

Research In Motion Ltd., 295 Phillip Street, Waterloo, Ontario, Canada N2L 3W8.

Research In Motion Corporation, 122 W. John Carpenter Parkway, Suite 430, Irving, TX 75039.

Transcend Information Inc., No. 70, XingZhong Rd., NeiHu District, Taipei, Taiwan.

Transcend Information, Inc. (US), 1645 North Brian Street, Orange, CA 92867.

Transcend Information Inc. (Shanghai Factory), 4F, Kaixuan City Industrial Park, No. 1010, Kaixuan Road, Shanghai, China 200052.

(c) The Commission investigative attorney, party to this investigation, is Stephen R. Smith, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–22667 Filed 9–10–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–350P]

Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2011: Proposed

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed annual assessment of needs for 2011.

SUMMARY: This notice proposes the initial year 2011 Assessment of Annual Needs for certain List I chemicals in accordance with the Combat Methamphetamine Epidemic Act (CMEA) of 2005. The CMEA requires DEA to establish production quotas and import quotas for ephedrine, pseudoephedrine, and phenylpropanolamine. The CMEA places additional regulatory controls upon the manufacture, distribution, importation, and exportation of the three List I chemicals.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before October 13, 2010.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA–350P" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, *Attention:* DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* However, persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, *Telephone:* (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 713 of the CMEA of 2005 (Title VII of Pub. L. 109–177) (CMEA) amended § 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) by adding ephedrine, pseudoephedrine, and phenylpropanolamine to existing language to read as follows: "The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled

substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks." Further, § 715 of CMEA amended 21 U.S.C. 952 "Importation of controlled substances" by adding the same List I chemicals to the existing language in paragraph (a), and by adding a new paragraph (d) to read as follows:

(a) Controlled substances in schedule I or II and narcotic drugs in schedules III, IV, or V; exceptions:

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, or ephedrine, pseudoephedrine, and phenylpropanolamine, except that—

(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves, and of ephedrine, pseudoephedrine, and phenylpropanolamine, as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes * * *

may be so imported under such regulations as the Attorney General shall prescribe.

* * * * *

(d)(1) With respect to a registrant under section 958 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

Editor's Note: This excerpt of the amendment is published for the convenience of the reader. The official text is published at 21 U.S.C. 952(a) and (d)(1).

The proposed 2011 Assessment of Annual Needs represents those quantities of ephedrine, pseudoephedrine, and phenylpropanolamine which may be manufactured domestically and/or imported into the United States to provide adequate supplies of each substance to meet the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks.

As of June 25, 2010, the DEA has received a total of 99 applications for 2011 import, procurement and manufacturing quotas for ephedrine, pseudoephedrine, and phenylpropanolamine. As a comparison, for the 2010 quota year, DEA has received 204 applications for import, procurement, and manufacturing quotas. DEA calculated the 2011 Assessment of Annual Needs for the List I chemicals using the calculation methodology described in both the 2009 and 2010 Assessment of Annual Needs (74 FR 32954 and 74 FR 60294, respectively). These calculations take into account the criteria that DEA is required to consider in accordance with 21 U.S.C. 826 and its implementing regulations (21 CFR 1315.11).

In finalizing the assessments for these List I chemicals, DEA will consider the information contained in additional applications for 2011 import, manufacturing and procurement quotas from DEA registered manufacturers and importers that DEA receives after the date of drafting this notice, June 25, 2010, as well as the comments that DEA receives in response to this proposal. DEA registered manufacturers and importers are reminded that pursuant to 21 CFR 1315.22, 1315.32(e) and 1315.34(d) applications for import and procurement quotas are due by April 1 and that applications for manufacturing quotas are due by May 1 of the year preceding the year for which the quota is to be applied. DEA encourages registrants to submit their quota applications by the regulatory due dates to ensure their requirements are considered.

Underlying Data and DEA's Analysis

In determining the proposed 2011 assessments, DEA has considered the total net disposals (*i.e.* sales) of the List I chemicals for the current and preceding two years, actual and estimated inventories, projected demand (2011), industrial use, and export requirements from data provided by DEA registered manufacturers and importers in procurement quota applications (DEA 250), from manufacturing quota applications (DEA 189), and from import quota applications (DEA 488).[1]

DEA further considered trends as derived from information provided in applications for import, manufacturing, and procurement quotas and in import and in export declarations. DEA notes that the inventory, acquisitions (purchases) and disposition (sales) data provided by DEA registered manufacturers and importers reflects the most current information available.

Ephedrine Data

EPHEDRINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Ephedrine	2008	2009	2010	2011 request
Sales* (DEA 250)	2,159	2,136	2,416	2,867
Imports** (DEA 488)	49	0	87	104
Export Declarations (DEA 486)	18	64	52	n/a
Inventory* (DEA 250)	723	497	315	n/a
IMS*** (NSP)	1,460	1,401	n/a	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250).
** Reported imports from applications for 2011 import quotas (DEA 488).
*** IMS Health, IMS National Sales Perspectives™, January 2008 to December 2009, Retail and Non-Retail Channels, Data Extracted June 25, 2010.

[1] Applications and instructions for procurement, import and manufacturing quotas can be found at *http://www.deadiversion.usdoj.gov/quotas/quota_apps.htm.*

Ephedrine Analysis

DEA calculated the proposed 2011 Assessment of Annual Needs for ephedrine using the calculation developed to determine the 2009 Assessment of Annual Needs. This calculation considers the criteria defined in 21 U.S.C. 826: estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks.

As of June 25, 2010, DEA registered manufacturers of dosage form products containing ephedrine requested the authority to purchase a total of 2,867 kg ephedrine (for sale) in 2011. DEA registered manufacturers of ephedrine reported sales totaling approximately 2,136 kg in 2009 and 2,416 kg in 2010; this represents a 12 percent increase in sales reported by these firms from 2009 to 2010. Additionally, exports of ephedrine products from the United States as reported on export declarations (DEA 486) totaled 64 kg in 2009 and 52 kg in 2010; this represents a 19 percent decrease from levels observed in 2009. The average of the 2009 and 2010 exports of ephedrine products is approximately 58 kg. DEA also considered information on trends in the national rate of net disposals from sales data provided by IMS Health's NSP database. IMS NSP data reported the average sales volume of ephedrine for the calendar years 2008 and 2009 to be approximately 1,431 kg. DEA notes that the 2010 sales figure reported by manufacturers (2,416 kg) is higher than the average sales reported by IMS for the previous two years (1,431 kg). This is expected because a manufacturer's reported sales include quantities which are necessary to provide reserve stocks for distributors and retailers. In considering the manufacturer's reported sales, DEA thus believes that 2,416 kg fairly represents the U.S. sales of ephedrine for 2011 and that 58 kg fairly represents the export requirements of ephedrine.

For the establishment and maintenance of reserve stocks, DEA notes that 21 CFR 1315.24 allows for an inventory allowance (reserve stock) of 50 percent of a manufacturer's estimated sales. DEA also considered the estimated 2010 year end inventory as reported by DEA registrants in determining the inventory allowance.

DEA calculated the ephedrine (for sale) assessment by the following methodology:

2010 sales + reserve stock + export requirement − existing inventory = AAN
2,416 + (50%*2,416) + 58 − 315 = 3,367 kg ephedrine (for sale) for 2011.

This calculation suggests that DEA's Assessment of Annual Needs for ephedrine should be proposed to be 3,400 kg. Accordingly, DEA is proposing the 2011 Assessment of Annual Needs for ephedrine (for sale) at 3,400 kg.

Phenylpropanolamine (for Sale) Data

PHENYLPROPANOLAMINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Phenylpropanolamine (for sale)	2008	2009	2010	2011 request
Sales* (DEA 250)	4,252	4,350	4,374	5,638
Imports** (DEA 488)	105	1,503	1,582	1,596
Export Declarations (DEA 486)	0	3	0	n/a
Inventory* (DEA 250)	2,054	2,318	1,951	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) received as of June 25, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of June 25, 2010.

Phenylpropanolamine (for Sale) Analysis

DEA utilized the same general methodology and calculation to establish the assessment for phenylpropanolamine (for sale) as was described for the assessment of ephedrine (for sale), above.

As of June 25, 2010, DEA registered manufacturers of dosage form products containing phenylpropanolamine requested the authority to purchase 5,638 kg phenylpropanolamine (for sale) in 2011. DEA registered manufacturers of phenylpropanolamine reported sales totaling approximately 4,350 kg in 2009 and 4,374 kg in 2010; this represents a 0.5 percent increase in sales reported by these firms from 2009 to 2010. Additionally, exports of phenylpropanolamine products from the U.S. as reported on export declarations (DEA 486) totaled 3 kg in 2009 and 0 kg in 2010; this represents a 3 kg decrease from levels observed in 2009. The average of the 2009 and 2010 exports of phenylpropanolamine products is approximately 2 kg. DEA thus believes that 4,374 kg fairly represents the U.S. sales of phenylpropanolamine for 2011 and that 2 kg fairly represents the export requirements of phenylpropanolamine. DEA notes that phenylpropanolamine is sold primarily as a veterinary product for the treatment for canine incontinence and is not approved for human consumption. IMS Health's NSP Data does not capture sales of phenylpropanolamine to these channels and is therefore not included.

DEA calculated the phenylpropanolamine (for sale) assessment by the following methodology:

2010 sales + reserve stock + export requirement − existing inventory = AAN
4,374 + (50%*4,374) + 2 − 1,951 = 4,612 kg phenylpropanolamine (for sale) for 2011.

This calculation suggests that DEA's 2011 Assessment of Annual Needs for phenylpropanolamine (for sale) should be proposed at 4,700 kg. Accordingly, DEA is proposing the 2011 Assessment of Annual Needs for phenylpropanolamine (for sale) at 4,700 kg.

Pseudoephedrine (for Sale) Data

PSEUDOEPHEDRINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Pseudoephedrine (for sale)	2008	2009	2010	2011 request
Sales* (DEA 250)	169,992	145,853	148,934	181,219

PSEUDOEPHEDRINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS—Continued

[Kilograms]

Pseudoephedrine (for sale)	2008	2009	2010	2011 request
Sales * (DEA 189)	64,781	7,321	5,550	0
Imports ** (DEA 488)	10,872	39,168	44,030	74,012
Export Declarations (DEA 486)	47,199	35,264	8,480	n/a
Inventory * (DEA 250)	97,026	72,070	55,323	n/a
IMS *** (NSP)	149,232	140,784	n/a	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250).
** Reported imports from applications for 2011 import quotas (DEA 488).
*** IMS Health, IMS National Sales Perspectives™, January 2008 to December 2009, Retail. and Non-Retail Channels, Data Extracted June 25, 2010.

Pseudoephedrine (for Sale) Analysis

DEA utilized the same general methodology and calculations to establish the assessment for pseudoephedrine (for sale) as were described for the assessment of ephedrine (for sale), above.

As of June 25, 2010, DEA registered manufacturers of dosage form products containing pseudoephedrine requested the authority to purchase 181,219 kg pseudoephedrine. DEA registered manufacturers of pseudoephedrine reported sales totaling approximately 145,853 kg in 2009 and 148,934 kg in 2010; this represents a 2 percent increase in sales reported by these firms from 2009 to 2010. During the same period exports of pseudoephedrine products from the U.S. as reported on export declarations (DEA 486) totaled 35,264 kg in 2009 and 8,480 kg in 2010; this represents a 76 percent decrease from levels observed in 2009. The average of the 2009 and 2010 exports is 21,872 kg. Additionally, DEA considered information on trends in the national rate of net disposals from sales data provided by IMS Health. IMS NSP data reported the average retail sales volume of pseudoephedrine for the calendar years 2008 and 2009 to be approximately 145,008 kg. DEA thus believes that 148,934 kg of sales reported by manufacturers fairly represents the U.S. sales of pseudoephedrine for 2011 and that 21,872 kg fairly represents the export requirements of pseudoephedrine.

DEA calculated the pseudoephedrine (for sale) assessment by the following methodology:

2010 sales + reserve stock + export requirement − existing inventory = AAN
148,934 + (50%*148,934) + 21,872 − 55,323 = 189,950 kg pseudoephedrine (for sale) for 2011

This calculation suggests that DEA's 2011 Assessment of Annual Needs for pseudoephedrine (for sale) should be proposed at 190,000 kg. Accordingly, DEA is proposing the 2011 Assessment of Annual Needs for pseudoephedrine (for sale) at 190,000 kg.

Phenylpropanolamine (for Conversion) Data

PHENYLPROPANOLAMINE (FOR CONVERSION) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Phenylpropanolamine (for conversion)	2008	2009	2010	2011 request
Sales * (DEA 250)	3,120	4,415	5,855	12,200
Imports ** (DEA 488)	105	1,503	1,582	1,500
Export Declarations (DEA 486)	0	0	0	n/a
Inventory * (DEA 250)	875	503	713	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) received as of June 25, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of June 25, 2010.

Phenylpropanolamine (for Conversion) Analysis

As of June 25, 2010, DEA registered manufacturers of phenylpropanolamine (for conversion) requested the authority to purchase a total of 12,200 kg phenylpropanolamine for the manufacture of amphetamine. DEA registered manufacturers of phenylpropanolamine reported sales of phenylpropanolamine totaling approximately 4,415 kg in 2009 and 5,855 kg in 2010; this represents a 26 percent increase in sales reported by these firms from 2009 to 2010. There were no reported exports of phenylpropanolamine (for conversion). DEA has not received any requests to synthesize phenylpropanolamine in 2011. DEA has concluded that the 2010 sales of phenylpropanolamine (for conversion), 5,855 kg, fairly represents U.S. requirements for 2011 and zero kg fairly represents the export requirements of phenylpropanolamine (for conversion).

DEA believes that the data provided in procurement, manufacturing, and import quota applications best represents the legitimate need for phenylpropanolamine (for conversion). Phenylpropanolamine (for conversion) is used for the manufacture of legitimate amphetamine products, but DEA notes that most legitimate amphetamine is manufactured by converting phenylacetone rather than phenylpropanolamine, to amphetamine. Basing the phenylpropanolamine (for conversion) calculation on the total Aggregate Production Quota (APQ) for amphetamine therefore would inaccurately inflate the phenylpropanolamine (for conversion) assessment.

DEA calculated the phenylpropanolamine (for conversion) assessment for the manufacture of amphetamine as follows:

(2010 sales) + reserve stock + export requirement − inventory = AAN (5,855) + (50%*5,855) + 0 − 713 = 8,070 kg PPA (for conversion) for 2011

This calculation suggests that DEA's 2011 Assessment of Annual Needs for phenylpropanolamine (for conversion) should be proposed at 8,100 kg. Accordingly, DEA is proposing the 2011 Assessment of Annual Needs for phenylpropanolamine (for conversion) at 8,100 kg.

Ephedrine (for Conversion) Data

EPHEDRINE (FOR CONVERSION) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Ephedrine (for conversion)	2008	2009	2010	2011 request
Sales * (DEA 250)	64,665	9,316	6,057	287
Imports ** (DEA 488)	0	0	0	0
Inventory * (DEA 250)	233	99	152	n/a
APQ Methamphetamine ***	3,130	3,130	3,130	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) and manufacturing quotas (DEA 189) received as of June 25, 2010.

** Reported imports from applications for 2011 import quotas (DEA 488) received as of June 25, 2010.

*** Methamphetamine Aggregate Production Quota History *http://www.deadiversion.usdoj.gov/quotas/quota_history.pdf.*

Ephedrine (for Conversion) Analysis

As of June 25, 2010, DEA registered manufacturers of ephedrine (for conversion) requested the authority to purchase a total of 287 kg ephedrine (for conversion) for the manufacture of two substances: Methamphetamine and pseudoephedrine.

DEA considered the ephedrine (for conversion) requirements for the manufacture of methamphetamine and pseudoephedrine. DEA has determined that the established assessments for the manufacture of these two substances are the best indicators of the need for ephedrine (for conversion). The assessment of need for methamphetamine was determined by DEA as the Aggregate Production Quota (APQ) for methamphetamine. DEA determined that the estimated sale of pseudoephedrine, as referenced in the proposed Assessment of Annual Needs (AAN) for pseudoephedrine, represents the need for pseudoephedrine. Reported sales of ephedrine (for conversion) are included as reference to DEA's methodology.

DEA further considered the reported conversion yields of these substances. DEA registered manufacturers reported a conversion yield of 39 percent for the synthesis of methamphetamine from ephedrine. DEA cannot disclose the conversion yield for the synthesis of pseudoephedrine because this information is proprietary to the one manufacturer involved in this type of manufacturing.

DEA calculated the ephedrine (for conversion) assessment by the following methodology:

methamphetamine requirement + pseudoephedrine requirement = AAN

DEA calculated the ephedrine (for conversion) requirement for the manufacture of methamphetamine as follows:

(2010 APQ methamphetamine/39 percent yield) + reserve stock − inventory = ephedrine (for manufacture of methamphetamine)

(3,130/39 percent yield) + 50 percent*(3,130/39 percent yield) − 152 = 11,887 kg

The calculation for the ephedrine (for conversion) requirement for the manufacture of pseudoephedrine leads to a result of 6,703 kg. DEA cannot provide the details of the calculation because this would reveal the conversion yield for the synthesis of pseudoephedrine, which is proprietary to the one manufacturer involved in this type of manufacturing. Therefore, the assessment for ephedrine was determined by the sum total of the ephedrine (for conversion) requirements as described by the following methodology:

methamphetamine requirement + pseudoephedrine requirement = AAN 11,887 + 6,703 = 18,590 kg ephedrine (for conversion) for 2011

This calculation suggests that DEA's 2011 Assessment of Annual Needs for ephedrine (for conversion) should be proposed at 18,600 kg. Accordingly, DEA is proposing the 2011 Assessment of Annual Needs for ephedrine (for conversion) at 18,600 kg.

Conclusion

In finalizing the 2011 assessments for these List I chemicals, DEA will use the methodology and calculations presented above. The numbers used in the calculations may be adjusted upwards or downwards based on the additional applications for 2011 import, manufacturing and procurement quotas received after June 25, 2010. DEA urges registered importers and manufacturers to submit applications for 2011 import, manufacturing and procurement quota so that DEA may include information from those applications when finalizing these assessments in accordance with 21 CFR 1315.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), and delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby proposes the following 2011 Assessment of Annual Needs for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine for 2011, expressed in kilograms of anhydrous base:

List I chemicals	Proposed year 2011 assessment of annual needs (kg)
Ephedrine (for sale)	3,400
Phenylpropanolamine (for sale)	4,700
Pseudoephedrine (for sale)	190,000
Phenylpropanolamine (for conversion)	8,100
Ephedrine (for conversion)	18,600

Ephedrine (for conversion) refers to the industrial use of ephedrine, *i.e.,* that which will be converted to another basic drug class such as pseudoephedrine or methamphetamine used for the manufacture of prescription weight loss drug. Phenylpropanolamine (for conversion) refers to the industrial use of phenylpropanolamine, *i.e.,* that which will be converted to another basic drug class such as amphetamine for the manufacture of drug products. The "for sale" assessments refer to the amount of ephedrine, pseudoephedrine, and phenylpropanolamine intended for ultimate use in products containing these List I chemicals.

All interested persons are invited to submit their comments in writing or electronically regarding this proposal following the procedures in the **ADDRESSES** section of this document. A person may object to or comment on the

proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief. Persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. In the event that comments or objections to this proposal raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing as per 21 CFR 1315.13(e).

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this action will not have a significant economic impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601–612. The establishment of the Assessment of Annual Needs for ephedrine, pseudoephedrine and phenylpropanolamine is mandated by law. The assessments are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for lawful export requirements, and the establishment and maintenance of reserve stocks. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Executive Order 12866

The Office of Management and Budget has determined that notices of Assessment of Annual Needs are not subject to centralized review under Executive Order 12866.

Executive Order 13132

This action does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

Executive Order 12988

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

This action will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: August 27, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–22688 Filed 9–10–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0028]

Advisory Committee on Construction Safety and Health (ACCSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for nominations of members to serve on ACCSH.

SUMMARY: The Assistant Secretary of Labor for Occupational Safety and Health (OSHA) invites interested parties to submit nominations for membership on ACCSH.

DATES: Nominations for ACCSH must be submitted (postmarked, sent, transmitted, or received) by November 12, 2010.

ADDRESSES: You may submit nominations and supporting materials by any one of the following methods:

Electronically: Nominations, including attachments, may be submitted electronically at *http://www.regulations.gov,* the Federal e-Rulemaking Portal. Follow the online instructions for submitting nominations;

Facsimile: If your nomination and supporting materials, including attachments, do not exceed 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648;

Mail, express delivery, hand delivery, and messenger or courier service: Submit your nominations and supporting materials to the OSHA Docket Office, Docket No. OSHA–2010–0028, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 TTY number (877) 889–5627. Deliveries by hand, express mail, messenger, and courier service are accepted during the OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., *e.t.*

Instructions: All nominations and supporting materials must include the agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2010–0028). Because of security-related procedures, submitting nominations by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office for information about security procedures for submitting nominations by hand delivery, express delivery, and messenger or courier service. For additional information on submitting nominations, *see* the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section below.

All submissions in response to this **Federal Register** notice, including personal information provided, are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download submissions in response to this **Federal Register** notice, go to Docket No. OSHA–2010–0028 at *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through that webpage. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR ADDITIONAL INFORMATION:

For press inquiries: Ms. 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 information: Mr. Francis Dougherty, OSHA, Office of Construction Services, Directorate of

Construction, Room N–3468, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone 202–693–2020; e-mail address *dougherty.francis@dol.gov*.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of OSHA invites interested parties to submit nominations for membership on ACCSH.

Background. ACCSH is a continuing advisory committee established under Section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act (CSA))(40 U.S.C. 3704(d)(4)), to advise the Secretary of Labor (Secretary) in formulating construction safety and health standards, as well as on policy matters arising under the CSA and the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*). In particular, 29 CFR 1911.10(a) and 1912.3(a) provide that the Assistant Secretary shall consult with ACCSH whenever the Agency proposes any safety or health standard that affects the construction industry.

ACCSH operates in accordance with the CSA, the OSH Act, the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), and regulations issued pursuant to those statutes (29 CFR part 1912, 41 CFR part 102–3). ACCSH generally meets two to four times a year.

ACCSH membership. ACCSH is comprised of 15 members appointed by the Secretary.

The categories of ACCSH membership, and the number of new members to be appointed, are:

- Five members who are qualified by experience and affiliation to present the viewpoint of employers in the construction industry: three employer representatives will be appointed;
- Five members who are similarly qualified to present the viewpoint of employees in the construction industry: three employee representatives will be appointed;
- Two representatives of State Plan State safety and health agencies: one State Plan State representative will be appointed;
- Two public members, qualified by knowledge and experience to make a useful contribution to the work of ACCSH, such as those who have professional or technical experience and competence with occupational safety and health in the construction industry: one public representative will be appointed; and
- One representative designated by the Department of Health and Human Services and appointed by the Secretary: No new appointment will be made.

ACCSH members normally serve staggered two-year terms, unless they resign, cease to be qualified, become unable to serve, or are removed by the Secretary (29 CFR 1912.3(e)). At the discretion of the Secretary, a qualified ACCSH member whose term has expired may continue to serve until a successor is appointed. The Secretary may appoint ACCSH members to successive terms. Any member absent from two consecutive ACCSH meetings may be removed and replaced. No member of ACCSH, other than members who represent employers or employees, shall have an economic interest in any proposed rule that affects the construction industry (29 CFR 1912.6).

The Department of Labor is committed to equal opportunity in the workplace and seeks broad-based and diverse ACCSH membership. Any interested person or organizations may nominate one or more individuals for membership on ACCSH. Interested persons also are invited and encouraged to submit statements in support of particular nominees.

Submission requirements. Nominations must include the following information:

(1) Nominee's contact information and current employment or position;

(2) Nominee's resume or curriculum vitae, including prior membership on ACCSH and other relevant organizations and associations;

(3) Categories of membership (employer, employee, public, State safety and health agency) that the nominee is qualified to represent;

(4) A summary of the background, experience, and qualifications that addresses the nominee's suitability for each of the nominated membership categories;

(5) Articles or other documents the nominee has authored that indicate the nominee's knowledge, experience, and expertise in occupational safety and health, particularly as it pertains to the construction industry; and

(6) A statement that the nominee is aware of the nomination, is willing to regularly attend and participate in ACCSH meetings, and has no conflicts of interest that would preclude membership on ACCSH.

Member selection. ACCSH members will be selected on the basis of their experience, knowledge, and competence in the field of occupational safety and health, particularly in the construction industry. Information, received through this nomination process, in addition to other relevant sources of information, will assist the Secretary in appointing members to ACCSH. In selecting ACCSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals. OSHA will publish the list of new ACCSH members in the **Federal Register**.

Public Participation

Instructions for submitting nominations. All nominations, supporting documents, attachments, and other materials must identify the Agency name and the docket number for this notice (Docket No. OSHA–2010–0028). You may submit materials: (1) Electronically, (2) by FAX, or (3) by hard copy. You may supplement electronic submissions by attaching electronic files. Alternatively, if you wish to supplement electronic submissions with hard copy documents, you must submit them to the OSHA Docket Office and clearly identify your electronic submission by Agency name and docket number (Docket No. OSHA–2010–0028) so that the materials can be attached to the electronic submission.

Because of security-related procedures, materials submitted by mail may experience significant delays. For information about security procedures concerning the delivery of materials by hand, express delivery, and messenger or courier service, please contact the OSHA Docket Office.

All submissions, including personal information provided, will be posted in the docket without change; therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. Guidance on submitting nominations and supporting materials is available on-line at *http://www.regulations.gov* and from the OSHA Docket Office.

Access to docket. All submissions in response to this **Federal Register** notice are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from that Webpage. All submissions, including materials not available on-line, are available for inspection and copying at the OSHA Docket Office. For information about accessing materials in Docket No. OSHA–2010–0028, including materials not available on-line, contact the OSHA Docket Office.

Access to this **Federal Register** *notice.* 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, also is available at OSHA's Webpage at *http://www.osha.gov.*

Authority and Signature: David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational

Safety and Health, directed the preparation of this notice under the authority granted by section 7 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704), the Federal Advisory Committee Act (5 U.S.C. App. 2), 29 CFR part 1912, 41 CFR part 102–3, and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 7th day of September, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–22695 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,063]

TRG Insurance Solutions, LLC; Beckley, WV; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated August 12, 2010, petitioners requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of TRG Insurance Solutions, LLC, Beckley, West Virginia (subject firm). The negative determination was issued on July 14, 2010. The Notice of Determination was published in the **Federal Register** on August 2, 2010 (75 FR 45164). Workers are engaged in employment related to the supply of insurance call center services.

The negative determination was based on the findings that the subject firm did not, during the period under investigation, shift to/acquire from a foreign country services like or directly competitive with the insurance call center services supplied; that the workers' separation, or threat of separation, was not related to an increase in imports of like or directly competitive services; and that the workers did not supply a service that was directly used in the production of an article or the supply of service by a firm that employed a worker group that is eligible to apply for TAA based on the aforementioned article or service.

In the request for reconsideration, the petitioners provided additional information pertaining to a shift in services abroad.

The Department has carefully reviewed the request for reconsideration and the existing record and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 30th day of August, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–22716 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Telephone Point of Purchase Survey." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before November 12, 2010.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, telephone number 202–691–7628 (this is not a toll free number). (*See* **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this survey is to develop and maintain a timely list of retail, wholesale, and service establishments where urban consumers shop for specified items. This information is used as the sampling universe for selecting establishments at which prices of specific items are collected and monitored for use in calculating the Consumer Price Index (CPI). The survey has been ongoing since 1980 and also provides expenditure data that allows items that are priced in the CPI to be properly weighted.

II. Current Action

Office of Management and Budget clearance is being sought for the Telephone Point of Purchase Survey (TPOPS).

Since 1997, the survey has been administered quarterly via a computer-assisted-telephone-interview. This survey is flexible and creates the possibility of introducing new products into the CPI in a timely manner. The data collected in this survey are necessary for the continuing construction of a current outlet universe from which locations are selected for the price collection needed for calculating the CPI. Furthermore, the TPOPS provides the weights used in selecting the items that are priced at these establishments. This sample design produces an overall CPI market basket that is more reflective of the prices faced and the establishments visited by urban consumers.

For this clearance, the BLS will be implementing a cell phone frame to address a coverage issue associated with landline RDD surveys. The goal of including a cell phone frame is to contact respondents who reside in households with no landline service, but with cellular phone service. The implementation process will begin with a pre-test beginning in the first quarter of 2011 to assess cell phone frame interviewing and to determine the correct amount of sample to pull for each primary sampling unit or geographic area in the CPI. The cell

phone frame will be deployed into production in the third quarter of 2011.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information. Including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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 submissions of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Point of Purchase Survey.

OMB Number: 1220–0044.

Affected Public: Individuals or households.

Total Respondents: 24,469.

Frequency: Quarterly.

Total Responses: 63,375.

Average Time Per Response: 11 minutes.

Estimated Total Burden Hours: 11,619 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 3rd day of September, 2010.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2010–22715 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,259]

Dupont Teijin Films Including On-Site Leased Workers From Schenkers Logistics, Inc., Florence, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 22, 2009, applicable to workers of DuPont Teijin Films, including on-site leased workers from Schenkers Logistics, Inc., Florence, South Carolina (subject firm). The Department's notice was published in the **Federal Register** on November 17, 2009 (74 FR 59255). Workers are engaged in employment related to the production of polyester (PET) film.

On our own motion, the Department reviewed the certification applicable to the workers of the subject firm.

The Department's review shows that the subject firm was publicly identified by name by the International Trade Commission in an investigation resulting in a category of determination that is listed in Section 222(f) of the Act, 19 U.S.C. 2272(f). That determination was published in the **Federal Register** on November 6, 2008 and is within one year of the date of the TAA petition. Therefore, the Department is amending the impact date to read November 6, 2007 and the expiration date to read November 6, 2009.

The amended notice applicable to TA–W–72,259 is hereby issued as follows:

All workers of DuPont Teijin Films, including on-site leased workers of Schenkers Logistics, Inc., Florence, South Carolina, who became totally or partially separated from employment on or after November 6, 2007, through November 6, 2009, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 30th day of August, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–22720 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73.164]

General Motors Corporation, Renaissance Center, Including On-Site Leased Workers From Accretive Solutions, Detroit, Inc., Acro Service Corporation, Aerotek, Inc., Ajilon Consulting, Altair Engineering, Inc., Aquent LLC, Global Technology Associates, Ltd, JDM Systems Consultants, Inc., Kelly Service, Inc., Populus Group, Teksystems, and Compuware Corporation, Detroit, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 23, 2010, applicable to workers of General Motors Corporation, Renaissance Center, including on-site leased workers from Accretive Solutions, Detroit, Inc., Acro Service Corporation, Aerotek, Inc., Ajilon Consulting, Altair Engineering, Inc., Aquent LLC, Global Technology Associates, Ltd., JDM Systems Consultants, Inc., Kelly Service, Inc., Populus Group, TEKsystems, Detroit, Michigan. The notice was published in the **Federal Register** on May 20, 2010 (75 FR 28299).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers support production of automobiles.

New information shows that workers leased from Compuware Corporation were employed on-site at the Detroit, Michigan location of General Motors Corporation, Renaissance Center.

The Department has determined that on-site workers from Compuware Corporation were sufficiently under the control of the subject firm to be covered by this certification.

Based on these findings, the Department is amending this certification to include workers from Compuware Corporation working on-site at the Detroit, Michigan location of General Motors Corporation, Renaissance Center.

The amended notice applicable to TA–W–73,164 is hereby issued as follows:

All workers of General Motors Corporation, Renaissance Center, including on-site leased workers from Accretive Solutions, Detroit, Inc., Acro Service Corporation, Aerotek, Inc.,

Ajilon Consulting, Altair Engineering, Inc., Aquent LLC, Global Technology Associates, Ltd., JDM Systems Consultants, Inc., Kelly Service, Inc., Populus Group, TEKsystems, and Compuware Corporation, Detroit, Michigan, who became totally or partially separated from employment on or after December 18, 2008 through April 23, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 31st day of August 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–22723 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,150A]

Dell Products LP—Parmer North One Including On-Site Leased Workers From Belcan Services Group, Hawkins Associates, Inc., Integrated Human Capital, Magrabbit, Manpower, and Spherion Corporation Austin, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 29, 2010, applicable to workers of Dell Products LP, Parmer North Location, a subsidiary of Dell, Inc., including on-site leased workers from Belcan Services Group, Hawkins Associates, Inc., Integrated Human Capital, MagRabbit, Manpower, and Spherion Corporation, Round Rock, Texas (TA–W–72,150). The notice was published in the **Federal Register** on March 5, 2010 (75 FR 10321). On May 7, 2010, the certification was amended to include an auxiliary facility, Dell Products LP—Parmer North One, Austin, Texas (TA–W–72,150A). The notice of amended certification was published in the **Federal Register** on May 21, 2010 (75 FR 28657). The workers at the Austin, Texas facility were engaged in the production of computer equipment (such as workstations, servers, and peripheral equipment).

At the request of the company official, the Department reviewed the certification applicable to workers and former workers of Dell Products LP—Parmer North One, Austin, Texas.

The company reports that workers leased from Belcan Services Group, Hawkins Associates, Inc., Integrated Human Capital, MagRabbit, Manpower, and Spherion Corporation were employed on-site at the Parmer North One location of Dell Products LP, Austin, Texas. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Belcan Services Group, Hawkins Associates, Inc., Integrated Human Capital, MagRabbit, Manpower, and Spherion Corporation working on-site at the Parmer North One location of Dell Products LP, Austin, Texas.

The amended notice applicable to TA–W–72,150A is hereby issued as follows:

All workers of Dell Products LP, Parmer North Location, including on-site leased workers from Belcan Services Group, Hawkins Associates, Inc., Integrated Human Capital, MagRabbit, Manpower, and Spherion Corporation, Austin, Texas, who became totally or partially separated from employment on or after August 24, 2008 through January 29, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 1st day of September, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–22719 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,575]

Dell Products LP, Winston-Salem (WS–1) Division, Including On-Site Leased Workers From Adecco, Spherion, Patriot Staffing, Manpower, Teksystems, APN, Iconma, Staffing Solutions, South East and Omni Resources and Recovery, Winston-Salem, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 1, 2010, applicable to workers of Dell Products LP, Winston-Salem (WS–1) Division, including on-site leased workers from Adecco, Spherion, Patriot Staffing, Manpower, TEKsystems, APN and ICONMA, Winston-Salem, North Carolina. The notice was published in the **Federal Register** on April 23, 2010 (75 FR 21361). The notice was amended on March 30, 2010 to include on-site leased workers from Staffing Solutions, South East. The notice was published in the **Federal Register** on April 19, 2010 (75 FR 20385)

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of desktop computers.

New information shows that workers leased from Omni Resources and Recovery were employed on-site at the Winston-Salem, North Carolina location of Dell Products LP, Winston-Salem (WS–1) Division. The Department has determined that on-site workers from Omni Resources and Recovery were sufficiently under the control of the subject firm to be covered by this certification.

Based on these findings, the Department is amending this certification to include workers leased from Omni Resources and Recovery working on-site at the Winston-Salem, North Carolina location of Dell Products LP, Winston-Salem (WS–1) Division.

The amended notice applicable to TA–W–72,575 is hereby issued as follows:

All workers of Dell Products LP, Winston-Salem (WS–1) Division, including on-site leased workers of Adecco, Spherion, Patriot Staffing, Manpower, TEKsystems, APN, ICONMA, and Staffing Solutions, South East, and Omni Resources and Recovery, Winston-Salem, North Carolina, who became totally or partially separated from employment on or after October 13, 2008 through March 1, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 31st, day of August, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–22721 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,601]

The Bank of New York Mellon Corporate Trust Operations Division Also Known as Global Corporate Trust Billing Including On-Site Leased Workers From Aerotek, Inc., Also Known as Allegis Group and Teksystems, Aetea Information Technology, Inc., Ajilon Consulting, American, Cybersystems, Inc., and Comforce Staffing Services, Syracuse, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 25, 2010, applicable to workers of The Bank of New York Mellon, Corporate Trust Operations Division, also known as Global Corporate Trust Billing, including on-site leased workers from Aerotek, Inc., AETEA Information Technology, Inc., Ajilon Consulting, American Cybersystems, Inc., and Comforce Staffing Services, Syracuse, New York. The notice was published in the **Federal Register** on April 23, 2010 (75 FR 21356).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in customized trust services, such as debt finance transactions.

The company reports that Aerotek, Inc., an on-site leasing firm at the subject firm, is also known as Allegis Group and TEKsystems.

Information also shows that workers separated from employment from Aerotek, Inc. had their wages reported under a separate unemployment insurance (UI) tax account for Allegis Group and TEKsystems.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in customized trust services to Pune, India.

The amended notice applicable to TA–W–71,601 is hereby issued as follows:

All workers of The Bank of New York Mellon, Corporate Trust Operations Division, including on-site leased workers of Aerotek, Inc., also known as Allegis Group and TEKsystems, AETEA Information Technology, Inc., Ajilon Consulting, American Cybersystems, Inc., and Comforce Staffing Services, Syracuse, New York, who became totally or partially separated from employment on or after July 7, 2008, through March 25, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 1st day of September 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–22718 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,856]

Isco Tubulars, Inc., Camanche, IA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 23, 2009, applicable to workers of IPSCO Tubulars, Inc., Camanche, Iowa (subject firm). The Department's notice was published in the **Federal Register** on February 16, 2010 (74 FR 7034). Workers are engaged in employment related to the production of steel pipe and tubular products.

On our own motion, the Department reviewed the certification applicable to the workers of the subject firm.

The Department's review shows that the subject firm was publicly identified by name by the International Trade Commission in an investigation resulting in a category of determination that is listed in Section 222(f) of the Act, 19 U.S.C. 2272(f). That determination was published in the **Federal Register** on July 21, 2008 and is within one year of the date of the TAA petition. Therefore, the Department is amending the impact date to read July 21, 2007 and the expiration date to read July 21, 2009.

The amended notice applicable to TA–W–70,856 is hereby issued as follows:

All workers of IPSCO Tubulars, Inc., Camanche, Iowa, who became totally or partially separated from employment on or after July 21, 2007, through July 21, 2009, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 30th day of August, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–22717 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,695]

Hanesbrands, Inc., Galax, VA; Notice of Negative Determination on Reconsideration

On May 4, 2010, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Parkdale Mills (formerly Hanesbrands, Inc.), Galax, Virginia. The Department's Notice was published in the **Federal Register** on May 20, 2010 (75 FR 28295).

The initial investigation resulted in a negative determination based on the finding that Parkdale Mills (formerly Hanesbrands, Inc.), Galax, Virginia did not totally or partially separate, or threaten to separate, a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974, as amended.

In the request for reconsideration, the petitioners alleged that an adequate employment decline had occurred and provided additional information in support of the allegation.

During the reconsideration investigation, the Department of Labor requested Hanesbrands, Inc. to submit a new Confidential Data Request form as well as written and verbal clarification of previously-submitted information and additional written information.

During the reconsideration investigation, the Department confirmed that the facility at issue was sold by Hanesbrands, Inc. to Parkdale Mills of Gastonia, North Carolina on October 28, 2009 and that yarn production increased in 2008 from 2007 levels but decreased during January through September 2009 compared to January through September 2008 levels.

The petitioners state that separations at the Galax, Virginia facility occurred on October 23, 2009 and October 24, 2009, and asserts that worker separations occurred because the "Plant was sold—reduction in force."

Based on previously-submitted information and new information obtained during the reconsideration investigation, the Department determines that the subject workers are workers separated from Hanesbrands, Inc., Galax, Virginia and not workers separated from Parkdale Mills, Galax, Virginia. A careful review of the new information revealed that a significant proportion or number of workers at Hanesbrands, Inc., Galax, Virginia was totally or partially separated, or threatened with such separation, prior to October 28, 2009.

During the reconsideration investigation, the Department confirmed that Hanesbrands, Inc., Galax, Virginia was an export-only facility that produced yarn exclusively for use in foreign countries and that Hanesbrands, Inc. did not shift to or acquire from a foreign country articles like or directly competitive with the yarn produced at the Galax, Virginia facility.

The reconsideration investigation also revealed that Hanesbrands, Inc. did not increase its imports of either articles like or directly competitive with the yarn produced at the Galax, Virginia facility or the apparel made from fabric woven from the yarn formerly produced at the Galax, Virginia facility.

Based on the information obtained during the initial and reconsideration investigations, the Department determines that the criteria set forth in Section 222(a) have not been met.

Since the yarn produced by the subject worker group was exported to be used in foreign facilities and worker groups located outside the United States and U.S. Territories cannot be eligible to apply for Trade Adjustment Assistance, the Department determines that the adversely affected secondary workers criteria set forth in Section 222(c) have not been met.

Conclusion

After careful reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Hanesbrands, Inc., Galax, Virginia.

Signed in Washington, DC, this 31st day of August, 2010.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2010–22722 Filed 9–10–10; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (10–110)]

NASA Advisory Council; Information Technology Infrastructure 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 (NASA) announce a meeting for the Information Technology Infrastructure Committee of the NASA Advisory Council (NAC).

DATES: Tuesday, September 28, 2010, 8 a.m.–5:30 p.m., Local Time. Meet-Me-Number: 1–877–613–3958; #2939943

ADDRESSES: NASA Ames Conference Center, 500 Severyns Avenue, Building 3, Ballroom, NASA Research Park, Moffett Field, CA 94035–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Tereda J. Frazier, Executive Secretary for the Information Technology Infrastructure Committee, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, (202) 358–2595.

SUPPLEMENTARY INFORMATION: The topics of discussion for the meeting are the following:

- NASA IT Summit Post Mortem Briefing;
- NASA's Chief Technology Officer Briefing;
- Jet Propulsion Laboratory's Chief Technology Officer Briefing;
- IT Committee Work Plan Actions/Assignments;
- Logistics.

The meeting will be open to the public up to the seating capacity of the room. It is imperative that this meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will need to show a valid picture identification such as a driver's license to enter the NASA Ames Conference Center and must state that they are attending the NASA Advisory Council Information Technology Infrastructure Committee meeting in the Ballroom. All non-U.S. citizens must fax copy of their passport, and print or type their name, current address, citizenship, company affiliation (if applicable) to include address, telephone number, and their title, place of birth, date of birth, U.S. visa information to include type, number and expiration date, U.S. Social Security Number (if applicable), and place and date of entry into the U.S., to Ms. Tereda J. Frazier, Executive Secretary, Information Technology Infrastructure Committee, NASA Advisory Council, at e-mail *tereda.j.frazier@nasa.gov* or by telephone at (202) 358–2595 by no later than September 20, 2010. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Ms. Tereda J. Frazier via e-mail at *tereda.j.frazier@nasa.gov* or by telephone at 202–358–2595. Persons with disabilities who require assistance should indicate this.

Dated: September 7, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–22651 Filed 9–10–10; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, September 16, 2010.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Briefing on Dodd-Frank Act Implementation.
2. Final Rule—Part 701 of NCUA's Rules and Regulations, Secondary Capital Accounts.
3. Final Rule—Part 701 of NCUA's Rules and Regulations, Short-term, Small amount Loans.
4. Vantage Credit Union's Appeal of Region IV's Denial of its Request to Convert to a Federal Community Charter.
5. Insurance Fund Report.
6. Adoption of FASAB Standards for Financial Reporting on the National Credit Union Share Insurance Fund.
7. National Credit Union Share Insurance Fund Premium.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, September 16, 2010.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Delegations of Authority (3). Closed pursuant to some or all of the following exemptions: (2), (8), (9)(A)(ii) and (B).

2. Consideration of Supervisory Activities. Closed pursuant to exemptions (8), (9)(A)(ii) and 9(B).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, *Telephone:* 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2010–22886 Filed 9–9–10; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (#1110).

Date and Time: October 6, 2010; 8:30 a.m. to 5 p.m.

October 7, 2010; 8:30 a.m. to 5 p.m.

Place: Hotel Boulderado, 2115 13th Street, Boulder, CO 80302.

Type of Meeting: Open.

Contact Person: Chuck Liarakos, National Science Foundation, Room 605, 4201 Wilson Boulevard, Arlington, VA 22230 Tel No.: (703) 292–8400.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

AGENDA

October 6, 2010

AM: Introductions and Updates; Presentation and Discussion—Innovation Experiments; Research Resources.

PM: Presentation and Discussion—Science, Arts and Humanities Symposium; COV Reports; COV Updates; New Ideas; Recognition of Departing BIO AC Members.

October 7, 2010

National Ecological Observatory Network, Inc.: NEON Overview and Status, Discussion and Presentation; Tours of NEON Technical Facility and Table Mountain Prototype Site.

Dated: September 8, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–22697 Filed 9–10–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings Notice

The National Science Board, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: Friday, September 24, 2010, at 7:45 a.m.

PLACE: Jacket Legacy Room, David B. Miller Yellow Jacket Student Union, Black Hills State University, Spearfish, South Dakota.

UPDATES AND POINT OF CONTACT: Please refer to the National Science Board Web site *http://www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.*

AGENCY CONTACT: Jennie L. Moehlmann, *jmoehlma@nsf.gov,* (703) 292–7000.

PUBLIC AFFAIRS CONTACT: Dana Topousis, *dtopousi@nsf.gov,* (703) 292–7750.

STATUS: One closed and several open sessions.

Closed Session

September 24, 2010

7:45 a.m.–8 a.m.

Open Sessions

September 24, 2010

8 a.m.–8:30 a.m.
8:30 a.m.–9:30 a.m.
9:45 a.m.–10:05 a.m.
10:05 a.m.–11 a.m.
11 a.m.–11:20 a.m.
11:20 a.m.–11:45 a.m.

Matters To Be Discussed

Thursday, September 24, 2010

Plenary Executive Closed

Closed Session: 7:45 a.m.–8 a.m. Jacket Legacy Room.

Approval of Executive Closed Session Minutes, May 2010, Election of Executive Committee Member.

Plenary Open

Open Session: 8 a.m.–11:45 a.m. Jacket Legacy Room.

8 a.m. Chairman's Introduction and Black Hills State University, President's Welcome, Chairman's Report, Director's Report.

8:30 a.m. Presentations from Tribal College Presidents:

Moderator: Dr. Jody Chase, National Science Foundation, Program Officer, Tribal Colleges and Universities Program (TCUP).

—Dr. Lionel R. Bordeaux, Sinte Gleska University (Invited),
—Dr. Diana Canku, Sisseton Wahpeton College,
—Mr. Thomas Shortbull, Oglala Lakota College,
—Dr. Laurel Vermillion, Sitting Bull College.

9:30 a.m. Break.

9:45 a.m. Overview of South Dakota Science and Engineering Research.

Introduction: Dr. Jack Warner, Executive Director, SD Board of Regents.

Presenter: Dr. Gary Johnson, System VP of Research, SD Board of Regents.

10:05 a.m. Discussion on Research at South Dakota's Institutions of Higher Learning.

Moderator: Dr. Gary Johnson, System Vice President of Research, SD Board of Regents.

Discussants:

—Dr. Duane Hrncir, Provost/Vice Pres. for Academic Affairs, SDSMT,
—Dr. Laura Jenski, Vice President for Research, USD,
—Dr. Kevin Kephart, Vice President for Research, SDSU,
—Dr. Jack Warner, Executive Director, SD Board of Regents.

11 a.m. Broad Impact of Deep Underground Science and Engineering Laboratory (DUSEL) on South Dakota Graduate Education in Physics.

Presenter: Dr. Robert Wharton, SDSMT President.

11:20 a.m. Integrative Graduate Education and Research Traineeship (IGERT) Program in South Dakota.

Presenter: Dr. Mary Berry, USD.

11:40 a.m. Chairman's Closing Remarks.

11:45 a.m. Adjourn.

Daniel A. Lauretano,

Counsel to the National Science Board.

[FR Doc. 2010–22825 Filed 9–9–10; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0002]

Sunshine Act; Notice of Meeting

DATE: Week of September 13, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL ITEMS TO BE CONSIDERED:

Week of September 13, 2010

Wednesday, September 15, 2010

8:45 a.m. Affirmation Session (Public Meeting) (Tentative).

a. Final Update of the Commission's Waste Confidence Decision (Tentative).

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301–492–2230, TDD: 301–415–2100, or by e-mail at *angela.bolduc@nrc.gov. mailto:dlc@nrc.gov.mailto:aks@nrc.gov* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: September 8, 2010.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2010–22821 Filed 9–9–10; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

Federal Register *Citation of Previous Announcement:* 75 FR 51505 (August 20, 2010).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., Friday, September 10, 2010.

CHANGES IN THE MEETING: The time of the meeting has been changed to 2:00 p.m.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, 202–789–6824 or stephen.sharfman@prc.gov.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–22802 Filed 9–9–10; 11:15 am]

BILLING CODE 7710–FW–S

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Tuesday, September 21, 2010, at 10 a.m.; and Wednesday, September 22, 2010, at 8:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tuesday, September 21, at 10 a.m. (Closed)

1. Strategic Issues.
2. Pricing.
3. Financial Matters.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Wednesday, September 22, at 8:30 a.m. (Closed)—if needed

Continuation of Tuesday's agenda.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2010–22876 Filed 9–9–10; 4:15 pm]

BILLING CODE 7710–12–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12268 and #12269]

Texas Disaster Number TX–00362

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–1931–DR), dated 08/03/2010.

Incident: Hurricane Alex.

Incident Period: 06/30/2010 through 08/14/2010.

Effective Date: 09/01/2010.

Physical Loan Application Deadline Date: 10/04/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 05/03/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Texas, dated 08/03/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Calhoun.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2010–22738 Filed 9–10–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12238 and #12239]

Nebraska Disaster Number NE–00038.

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–1924–DR), dated 07/15/2010.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 06/01/2010 through 08/29/2010.

Effective Date: 09/01/2010.

Physical Loan Application Deadline Date: 09/13/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 04/15/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster

declaration for Private Non-Profit organizations in the State of Nebraska, dated 07/15/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Adams, Buffalo, Dawes, Dawson, Hooker, Jefferson, Sheridan, Thurston.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2010–22743 Filed 9–10–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12272 and #12273]

Kansas Disaster Number KS–00045

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of KANSAS (FEMA–1932–DR), dated 08/10/2010 .

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 06/07/2010 through 07/21/2010.

DATES: *Effective Date:* 09/02/2010.

Physical Loan Application Deadline Date: 10/12/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 05/10/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Kansas, dated 08/10/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Cheyenne, Decatur, Elk, Jackson, Mcpherson, Sheridan, Wilson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–22744 Filed 9–10–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12238 and #12239]

Nebraska Disaster Number NE–00038

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–1924–DR), dated 07/15/2010.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 06/01/2010 through 08/29/2010.

Effective Date: 08/29/2010.

Physical Loan Application Deadline Date: 09/13/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 04/15/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of NEBRASKA, dated 07/15/2010, is hereby amended to establish the incident period for this disaster as beginning 06/01/2010 and continuing through 08/29/2010.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2010–22741 Filed 9–10–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62854; File No. SR–OCC–2010–14]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Revise Its Rules To Expand the Forms of Collateral Eligible for Incorporation in the System for Theoretical Analysis and Numerical Simulations Risk Management Methodology

September 7, 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 25, 2010, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The purpose of this proposed rule change is to revise OCC's Rules to expand the forms of collateral eligible for incorporation in the System for Theoretical Analysis and Numerical Simulations ("STANS") risk management methodology.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change would make a change to Interpretation and Policy .06 under Rule 601 in connection with expanding the forms of collateral eligible for incorporation in the STANS

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

risk management methodology. Currently, OCC incorporates common stock and ETFs [3] in the STANS margin calculation process.[4] When OCC began including common stock and ETFs in the STANS margin calculation process, it noted its belief that the procedure would more accurately measure risk in Clearing Members' accounts and thereby permit OCC to more precisely set margin requirements to reflect that risk. For those same reasons, OCC now proposes incorporating certain fixed-income, "government securities" into the STANS margin calculation process.

The specific amendments proposed to OCC's Rules to facilitate incorporation of government securities in the STANS margin calculation process can be found at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_10_14.pdf.*

OCC would incorporate certain "government securities" into the STANS margin calculation in phases beginning with U.S. Government securities.[5] Treasury Inflation Protected Securities and callable U.S Treasury Securities would be excluded from the initial phase as would Canadian government securities and GSE debt securities.[6]

Currently, government securities deposited as collateral to satisfy margin requirements are priced on a nightly basis and are assigned a value equal to their current market value less an applicable haircut based on the term to maturity. While this method of valuing collateral has generally served OCC well in the past, OCC believes analyzing cleared positions and margin assets as a single portfolio using STANS provides a more accurate valuation of the Clearing Members' securities deposited as collateral in relation to other account positions. As when OCC began including common stocks and ETFs in the STANS calculation, OCC believes phasing in government securities would align risk-management techniques utilized to manage market risk of cleared positions, for example for Treasury futures contracts, with those techniques used to value margin deposits.

The proposed inclusion of government securities into STANS would be implemented using an approach similar to that used for adding common stocks and ETFs. The value of the securities deposited in a Clearing Member's account would be determined along with the risk on the margin assets on a portfolio basis with reference to the volatility and correlation of each deposited security to the other positions in the account. Given the conservative nature of the current haircuts applied to deposits of government securities, OCC anticipates a modest increase in their collateral valuation should this change be implemented.

As a part of this proposal, OCC would apply a portfolio specific adjustment factor when determining whether sufficient margin excess resides in an account. This would enable OCC to release margin collateral to a Clearing Member on an intraday basis. The adjustment factor is account and security specific and is determined by approximating the change in margin requirement caused by depositing or withdrawing a particular security from the Clearing Member's account based on the risk characteristics of that security and its consequent assessed value. OCC believes this process would provide a more accurate projection of the margin impact of collateral withdrawals and substitutions on a Clearing Member's account. It is currently used to analyze the impact of substitutions and withdrawals of equity collateral within the STANS Monte Carlo simulations.[7]

OCC's Rule 601, "Margin Requirements" already provides that margin assets in the form of securities may be incorporated into the Monte Carlo calculations as an alternative to valuing such assets under Rule 604, "Form of Margin Assets". In connection with incorporating common stocks and ETFs into the STANS calculation, OCC adopted Interpretation and Policy .06 under Rule 601 to clarify that margin assets in the form of common stocks and ETFs would be included in the Monte Carlo simulations described in Rule 601 for purposes of determining the minimum expected liquidating value of an account with other margin assets being valued as provided for under Rule 604.[8] OCC now proposes broadening the interpretation to provide that OCC may designate those margin assets which, if deposited into a Clearing Member's account, will be valued as provided in Rule 601 rather than Rule 604. This change is intended to facilitate OCC's proposal incorporate certain government securities into the STANS margin calculation process.

OCC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act [9] and the rules and regulations thereunder because the proposed rule changes would promote accuracy in the clearance and settlement of cleared contracts and in the risk assessments relative thereto, and would promote efficiency and eliminate unnecessary costs to investors by determining margin requirements with better precision, and, in general, to protect investors and the public interest. The change accomplishes these purposes by more accurately valuing collateral deposits.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within forty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) 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 or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[3] ETFs fall within the definition of "fund shares" as that term is denied in Article I, Section 1 of OCC's By-Laws.

[4] Securities Exchange Act Release No. 34–58158 (July 15, 2008), 73 FR 42626 (July 22, 2008)(SR–OCC–2007–20).

[5] This would include but not be limited to Government securities and GSE debt securities.

[6] The government securities initially excluded would be evaluated for possible inclusion in STANS as appropriate models are developed.

[7] OCC believes the approach currently used to assess the impact of collateral substitutions and withdrawals represents an improvement over that outlined in File No. SR–OCC–2007–20. Interpretation and Policy .01 under Rule 608 generally provides that OCC may specify procedures from time-to-time to assess the impact of collateral withdrawals and substitutions.

[8] Rule 604(f) provides that, in lieu of the valuations provided for in Rule 604, OCC may elect to value any or all margin assets in the form of securities pursuant to Rule 601.

[9] 15 U.S.C. 78q–1.

Electronic Comments

- Use the Commissions 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–OCC–2010–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Elizabeth M. Murphy, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2010–14. 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 Section, 100 F Street, NE., Washington, DC 20549–1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of the OCC and on OCC's Web site at *http://www.optionsclearing.com/about/publications/bylaws.jsp.*

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–OCC–2010–14 and should be submitted on or before October 4, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–22701 Filed 9–10–10; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62850; File No. SR–NYSEArca–2010–80]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting Commentary .04 to Rule 6.47A Related to the Exposure of Reserve Orders

September 3, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 27, 2010, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Commentary .04 to Rule 6.47A related to the exposure of Reserve Orders. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to adopt a Commentary to NYSE Arca Rule 6.47A to specify that the exposure requirement contained in subsection (i) of the Rule is satisfied with respect to the non-displayed reserve portion of a Reserve Order if the displayable portion is displayed at its displayable price for one second. A Reserve Order is an order where only a portion of the full size is included in the Exchange's disseminated quotation.[4] The displayed size is executed according to the Exchange's regular priority rules, and is refreshed with additional volume from the non-displayed portion of the order. The non-displayed portion of the Reserve Order is available for execution only after the Exchange's displayed quote is fully exhausted.

Under the proposed commentary, after entering a Reserve Order, an OTP Holder may enter a contra-side order for its own account or a contra-side order that was solicited from another broker-dealer that would execute against the displayable and non-displayed portions of the order so long as the displayable portion of the order was displayed on NYSE Arca (*i.e.,* the price of the order is at the NYSE Arca Best Bid/Offer) for at least one second. This proposed Commentary is the same as an existing Commentary to the rule of the Nasdaq Options Market that contains the same exposure requirements as NYSE Arca Rule 6.47A.[5] Accordingly, the Commission has previously determined that display of the displayable portion of a reserve order is sufficient to satisfy the exposure requirements of NYSE Arca Rule 6.47A(i).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposal is the same as an existing rule of another exchange,[7] and will provide OTP Holders with certainty with respect to the applicable exposure requirements for reserve orders.

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

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca Rule 6.62(d)(3).

[5] Nasdaq Rules, Chapter VII, Sec.12 (Order Exposure Requirements), Commentary .03.

[6] 15 U.S.C. 78f (b).

[7] *Supra,* Note 2 [sic].

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2010–80 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2010–80. 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 Section, 100 F Street, NE., Washington, DC 20549–1090, on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *http://www.nyse.com.* 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–NYSEArca–2010–80 and should be submitted on or before October 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22703 Filed 9–10–10; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62851; File No. SR–NYSEAmex–2010–87]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting Commentary .06 to Rule 935NY Related to the Exposure of Reserve Orders

September 3, 2010.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 27, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Commentary .06 to Rule 935NY related to the exposure of Reserve Orders. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to adopt a Commentary to NYSE Amex Rule 935NY to specify that the exposure

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

requirement contained in subsection (i) of the Rule is satisfied with respect to the non-displayed reserve portion of a Reserve Order if the displayable portion is displayed at its displayable price for one second. A Reserve Order is an order where only a portion of the full size is included in the Exchange's disseminated quotation.[4] The displayed size is executed according to the Exchange's regular priority rules, and is refreshed with additional volume from the non-displayed portion of the order. The non-displayed portion of the Reserve Order is available for execution only after the Exchange's displayed quote is fully exhausted.

Under the proposed interpretation, after entering a Reserve Order, an ATP Holder may enter a contra-side order for its own account or a contra-side order that was solicited from another broker-dealer that would execute against the displayable and non-displayed portions of the order so long as the displayable portion of the order was displayed on NYSE Amex (*i.e.,* the price of the order is at the NYSE Amex Best Bid/Offer) for at least one second. This proposed Commentary is the same as an existing Commentary to the rule of the Nasdaq Options Market that contains the same exposure requirements as NYSE Amex Rule 935NY.[5] Accordingly, the Commission has previously determined that display of the displayable portion of a reserve order is sufficient to satisfy the exposure requirements of NYSE Amex Rule 935NY(i).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposal is the same as an existing rule of another exchange,[7] and will provide ATP Holders with certainty with respect to the applicable exposure requirements for reserve orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2010–87 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2010–87. 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 Section, 100 F Street, NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *http://www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2010–87 and should be submitted on or before October 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22742 Filed 9–10–10; 8:45 am]

BILLING CODE 8010–01–P

[4] NYSE Amex Rule 900.3NY(d)(3).

[5] Nasdaq Rules, Chapter VII, Sec.12 (Order Exposure Requirements), Commentary .03.

[6] 15 U.S.C. 78f (b).

[7] *Supra,* Note 2 [sic].

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62843; File No. SR–NYSEArca–2010–81]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule

September 3, 2010.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 30, 2010, NYSE Arca, Inc. ("NYSEARCA" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities, Inc. Schedule of Fees and Charges for Exchange Services (the "Schedule"). While changes to the Schedule pursuant to this proposal will be effective on filing, the changes will become operative on September 1, 2010. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Effective September 1, 2010, the Exchange proposes to amend the Schedule to modify the fees it charges for all market at-the-close ("MOC") and limit at-the-close ("LOC") orders executed in the NYSE Arca Equities, Inc. closing auction. At each applicable point in the Schedule, the per share fee will increase from $0.0007 to $0.0010 for MOC and LOC orders executed in the closing auction. The Exchange notes that The NASDAQ Stock Market LLC ("NASDAQ") recently made a similar filing increasing the fee that it charges for MOC and LOC orders in its closing cross from $0.0007 per share executed to $0.0010 per share executed.[4]

In addition, for each rate level, there will be an increase in the per share fee from $0.0007 to $0.00085 for PO and PO+ Orders that are (a) in the case of Tape A securities, routed to the New York Stock Exchange LLC ("NYSE") and execute in the opening or closing auction, or (b) in the case of Tape B securities, routed to NYSE Amex and execute in the opening or closing auction. Also, for each rate level, the Exchange proposes to charge a per share fee of $0.0010 for PO and PO+ Orders in Tape C securities that are routed to NASDAQ and execute in the opening or closing auction.

The Exchange is eliminating from the Schedule the current fee applicable to Tape B securities for orders executed in the Opening or Market Order Auction in NYSE Arca primary listed securities.

Finally, for both Tape A and Tape C securities under Tier 1 rates, the fee for taking liquidity from the book will be increased from $0.0029 to $0.0030 per share, and the same fee increase will be applicable for orders in Tape A and Tape C securities routed to any away market centers other than the NYSE. The Tier 1 rebate for adding liquidity in Tape A and Tape C securities will remain unchanged at $0.0030 per share, so the foregoing change will represent a move to flat pricing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the "Act"),[5] in general, and Section 6(b)(4) of the Act,[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms. Further, with respect to the proposed fee change for MOC and LOC orders that are executed in the Exchange's closing transaction, a competing exchange also recently implemented a similar fee change for its market participants, as described above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [7] of the Act and subparagraph (f)(2) of Rule 19b–4 [8] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

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:

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 62592 (July 29, 2010), 75 FR 47053 (August 4, 2010) (SR–NASDAQ–2010–095).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

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–2010–81 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2010–81. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange.[9] 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–NYSEArca–2010–81 and should be submitted on or before October 4, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–22702 Filed 9–10–10; 8:45 am]

BILLING CODE 8010–01–P

[9] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.*

[10] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2010–0058]

Occupational Information Development Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of upcoming panel teleconference meeting.

DATES: September 29, 2010, 10 p.m.–12 p.m. (EDT). Call-in number: (866) 283–9791, Conference ID: 1482323, Leader/Host: Debra Tidwell-Peters.

SUPPLEMENTARY INFORMATION:

Type of meeting: The teleconference meeting is open to the public.

Purpose: This discretionary Panel, established under the Federal Advisory Committee Act of 1972, as amended, will report to the Commissioner of Social Security. The Panel will provide independent advice and recommendations on plans and activities to replace the Dictionary of Occupational Titles used in the Social Security Administration's (SSA) disability determination process. The Panel will advise the Agency on creating an occupational information system tailored specifically for SSA's disability programs and adjudicative needs. The Panel's advice and recommendations will relate to SSA's disability programs in the following areas: Medical and vocational analysis of disability claims; occupational analysis, including definitions, ratings and capture of physical and mental/cognitive demands of work and other occupational information critical to SSA disability programs; data collection; use of occupational information in SSA's disability programs; and any other area(s) that would enable SSA to develop an occupational information system suited to its disability programs and would improve the medical-vocational adjudication policies and processes.

Agenda: The Designated Federal Officer will post the meeting agenda on the Internet at *http://www.ssa.gov/oidap/meeting_information.htm* at least one week prior to the start date. You can also receive a copy electronically by e-mail or by fax, upon request. SSA will keep records of all proceedings and make them available for public inspection by appointment at the Panel's office.

Contact Information: Anyone requiring information regarding the Panel should contact the Panel staff by any one of these three methods:

- *Mail:* Occupational Information Development Advisory Panel, Social Security Administration, 6401 Security Boulevard, Operations Building, 3–E–26, Baltimore, MD 21235.
- *Fax:* (410) 597–0825.
- *E-mail: OIDAP@ssa.gov.*

Deborah Tidwell,

Designated Federal Officer.

[FR Doc. 2010–22711 Filed 9–10–10; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 7156]

30–Day Notice of Proposed Information Collection: Form DS–1622, DS–1843, DS–1622P, and DS–1843P: Medical History and Examination for Foreign Service, OMB 1405–0068

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Medical History and Examination for Foreign Service .
- *OMB Control Number:* 1405–0068.
- *Type of Request:* Revision of Currently Approved Collection.
- *Originating Office:* Office of Medical Services, M/MED/C/MC.
- *Form Number:* DS–1622, DS–1843, DS–1622P, and DS–1843P.
- *Respondents:* Foreign Service Officers, State Department Employees, Other Government Employees and Family Members.
- *Estimated Number of Respondents:* 7,500 per year.
- *Estimated Number of Responses* 7,500 per year.
- *Average Hours per Response:* 1.0 hours per response.
- *Total Estimated Burden:* 7,500 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from August 30, 2010.

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

- *E-mail: silligsp@state.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

• *Mail (paper, disk, or CD–ROM submissions):* Department of State, Office of Medical Services, SA–1 Room L–101,
(ATTN: Susan Willig), 2401 E St., NW., Washington, DC 20522–0101
• *Fax:* 202–663–1934.
• If you have access to the Internet, you can view this notice and provide comments by going to *http://www.regulations.gov/search/Regs/home.html#home.*

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Susan Willig, Department of State, Office of Medical Services, SA–1 Columbia Plaza Room L101, (ATTN: Susan Willig), 2401 E St., NW., Washington, DC 20052–0101, who may be reached on 202–663–1754 or *willigsp@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
• Enhance the quality, utility, and clarity of the information to be collected.
• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: Form DS–1622(P) and DS–1843(P) are designed to collect medical information to provide medical providers with current and adequate information to base decisions on medical suitability for a federal employee and family members for assignment abroad. DS–1622 is for Children 11 years and under. DS–1843 is for Children 12 years and older. All forms will allow medical personnel to verify that there are sufficient medical resources at a diplomatic mission abroad to maintain the health and fitness of the individual and family members within the Department of State medical program.

Methodology: The information collected will be collected through the use of an electronic forms engine or by hand written submission using a pre-printed form.

Dated: September 2, 2010.

Sharon Ludan,

Executive Director, Office of Medical Services, Department of State.

[FR Doc. 2010–22772 Filed 9–10–10; 8:45 am]

BILLING CODE 4710–36–P

DEPARTMENT OF STATE

[Public Notice 7162]

Certification Related to Aerial Eradication in Colombia Under the International Narcotics Control and Law Enforcement Section of the Department of State Foreign Operations and Related Programs Appropriations Act, 2010 (Division F, Pub. L. 111–117)

Pursuant to the authority vested in the Secretary of State, including under the International Narcotics Control and Law Enforcement section of the Department of State Foreign Operations and Related Programs Appropriations Act, 2010, (Division F, Pub. L. 111–117), I hereby determine and certify that: (1) The herbicide used for aerial eradication of illicit crops in Colombia is being used in accordance with EPA label requirements for comparable use in the United States and in accordance with Colombian laws; (2) the herbicide, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment including endemic species; and (3) complaints of harm to health or licit crops caused by such aerial eradication are thoroughly evaluated and fair compensation is being paid in a timely manner for meritorious claims.

This certification shall be published in the **Federal Register**, and copies shall be transmitted to the appropriate committees of Congress.

Dated: August 31, 2010.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2010–22757 Filed 9–10–10; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF STATE

[Public Notice 7161]

Determination and Certification Under Section 7046(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010

Pursuant to the authority vested in the Secretary of State under section 7046(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (Div. F, Pub. L. 111–117), which incorporates by reference and amends, in part, section 7046(d) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (Div. H, Pub. L. 111–8) (FY 2009 SFOAA), I hereby determine and certify that the Government of Colombia is meeting the conditions described in section 7046(d)(2) of the FY 2009 SFOAA, and that I have consulted with Congress as consistent with section 7046(d)(1) of the FY 2009 SFOAA, as amended.

Dated: August 31, 2010.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2010–22758 Filed 9–10–10; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

[DOT Docket No. DOT–OST–2010–0074]

Office of the Secretary of Transportation: The Future of Aviation Advisory Committee (FAAC) Environment Subcommittee; Notice of Meeting

AGENCY: U.S. Department of Transportation, Office of the Secretary of Transportation.

ACTION: The Future of Aviation Advisory Committee (FAAC) Environment Subcommittee; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Department of Transportation (DOT), Office of the Secretary of Transportation, announces a meeting of the FAAC Environment Subcommittee, which will be held by teleconference. This notice announces the date and time of the meeting, which will be open to the public. The purpose of the FAAC is to provide advice and recommendations to the Secretary of Transportation to ensure the competitiveness of the U.S. aviation industry and its capability to manage effectively the evolving transportation needs, challenges, and opportunities of the global economy. The Environment Subcommittee is charged with examining steps and strategies that can be taken by aviation-sector stakeholders and the Federal Government to reduce aviation's environmental footprint and foster sustainability gains in cost-effective ways. This includes consideration of potential approaches to promote effective international actions through the International Civil Aviation Organization.

DATES: The meeting will be held on September 20, 2010, from 1 p.m. to 4 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held via teleconference. Call-in information will be provided to members of the public who register to participate.

Public Access: The meeting is open to the public. (*See* below for registration instructions.)

Public Comments: Persons wishing to offer written comments and suggestions concerning the activities of the advisory committee or Environment Subcommittee should file comments in the Public Docket (Docket Number DOT–OST–2010–0074 at *http://www.regulations.gov*) or alternatively through the *FAAC@dot.gov* e-mail. If comments and suggestions are intended specifically for the Environment Subcommittee, the term "Environment" should be listed in the subject line of the message. To ensure such comments can be considered by the subcommittee before its September 20, 2010, meeting, public comments must be filed by 5 p.m. Eastern Daylight Time on Wednesday, September 15, 2010.

SUPPLEMENTARY INFORMATION:

Background

Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the Environment Subcommittee of the Future of Aviation Advisory Committee taking place on September 20, 2010, from 1 p.m. to 4 p.m. Eastern Daylight Time. The meeting will be held by teleconference. The agenda includes—

1. Discussion of operational and technological improvements, sustainable alternative fuels, and harmonized domestic and global efforts that can contribute to reducing aviation carbon emissions.

2. Consideration of public comments.

3. Identification of potential recommendations for presentation at the next meeting of the full committee.

Registration

The meeting can accommodate up to 15 members of the public. Persons desiring to call in must preregister through e-mail to *FAAC@dot.gov* by 5 p.m. Eastern Daylight Time Wednesday, September 15, 2010. The term "Registration: Environment" should be listed in the subject line of the message and participation will be limited to the first 15 persons to preregister and receive a confirmation of their preregistration. Instructions for participating by phone will be provided with registration confirmation. Minutes of the meeting will be taken and will be made available to the public.

Requests for Special Accommodation

The DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please send a request to *FAAC@dot.gov* with the term "Special Accommodations" listed in the subject line of the message by close of business Wednesday, September 15, 2010.

FOR FURTHER INFORMATION CONTACT: Lynne Pickard, Deputy Director, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591; telephone (202) 267–3577; fax (202) 267–5594; *Lynne.Pickard@faa.gov.*

Issued in Washington, DC, on September 7, 2010.

Pamela Hamilton-Powell,

Designated Federal Official, Future of Aviation Advisory Committee.

[FR Doc. 2010–22653 Filed 9–10–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2010–0105]

Reports, Forms, and Recordkeeping Requirements

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

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 (44 U.S.C. 3501 *et seq.*), 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 an Information Collection Request (ICR) for which NHTSA intends to seek OMB approval.

DATES: Comments must be submitted on or before November 12, 2010.

ADDRESSES: Direct all written comments to the U.S. Department of Transportation Dockets, 1200 New Jersey Ave., SE., Washington, DC 20590. Docket No. NHTSA–2010–0038.

FOR FURTHER INFORMATION CONTACT: Randolph Atkins, PhD, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–131), National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., W46–500, Washington, DC 20590. Dr. Atkins' phone number is 202–366–5597 and his e-mail address is *randolph.atkins@dot.gov*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must 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 regulations (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; and

(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 public comment on the following proposed collection of information:

Title: System Analysis of Automated Speed Enforcement (ASE) Implementation.

Type of Request: New information collection request.

OMB Clearance Number: N/A.

Form Number: This collection of information uses no standard forms.

Requested Expiration Date of Approval: September 18, 2013.

Summary of the Collection of Information: A great many enforcement strategies are in use to combat speeding today. One important approach increasingly being used is Automated Speed Enforcement (ASE). A number of studies have shown the use of speed cameras for ASE to be effective in reducing traffic speeds. However, despite the effectiveness of speed cameras programs for ASE, it is often

difficult to establish public acceptance for these programs and put them into place. The objectives of this study are to: (1) Determine how the existing speed camera programs in the United States were developed and implemented; (2) Examine other variables that have affected these speed camera programs; and (3) Determine how all of these variables have affected the success of these programs.

This study will conduct a census survey of existing ASE programs in the United States and gather information from each site to address the objectives described above. Key personnel in the existing programs will be surveyed via an emailed questionnaire and by phone. This survey is expected to provide data relevant to ASE development and delivery that may affect the level of public acceptance for given speed camera programs, as well as their success. The variables to be addressed include specific target sites for the ASE (school zones, work zones, *etc.*), program funding and revenue flow (who pays for it and how, who profits from revenue, how it is promoted as a revenue generator or a safety measure), nature of citations issued (cite vehicle or cite driver), penalties for violations (level of fines, points on license, *etc.*), presence of other automated enforcement (red light cameras), level of traditional speed law enforcement, existence and results of program evaluations, media reports and level of media exposure, level of public acceptance, and the degree to which programs were set up and implemented according to NHTSA guidelines.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established by the Highway Safety Act of 1970 (23 U.S.C. 101) to carry out a Congressional mandate to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. Speeding is one of the primary factors leading to vehicle crashes. In 2008, 31% of all fatal crashes were speeding-related. The estimated economic cost to society for speeding-related crashes is $40.4 billion per year. Given the widespread occurrence of speeding and the high toll in injuries and lives lost in speed-related crashes, as well as the high economic costs of speed-related crashes, this is a safety issue that demands attention.

Currently the information on existing ASE programs is quite limited. The data collected in this study will provide NHTSA with important detailed information on programs using this countermeasure that will assist in reducing speeding on our nation's highways. In support of its mission, NHTSA will use the findings from this survey of ASE programs to help existing ASE programs improve their programs, and provide new information on this countermeasure for speeding that can assist other communities in establishing well-designed speed management programs, including ASE. This information is focused on achieving the greatest benefit in decreasing crashes and resulting injuries and fatalities, and providing informational support to States, localities, and law enforcement agencies that will aid them in their efforts to reduce traffic crashes.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—According to the Insurance Institute for Highway Safety, there are currently 58 local jurisdictions in 12 States and the District of Columbia using speed cameras for ASE in the United States. A few localities have also discontinued ASE programs in recent years. This survey will target communities that currently have ASE programs and sites that recently discontinued ASE programs. A few key personnel from each of the sites will be contacted to complete the survey on their ASE programs. This will include an emailed questionnaire and phone interviews. Participation will be voluntary. As this is a census collection of information on existing ASE programs and new programs are likely to start before the data collection effort can go into the field, our request includes a projected total to account for possible new program starts. In addition, as the information being collected is intended to help future ASE programs, our request also includes some programs that have discontinued ASE programs. We estimate that a maximum of 80 jurisdictions, including both current ASE programs and recently discontinued ASE programs may be contacted.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—The total estimated annual burden is approximately 960 hours for the survey and interviews for the 80 jurisdictions combined. We estimate approximately 12 hours per jurisdiction responding to our request for information (80 agencies x 12 hours each = 960 hours total). These 12 hours will be expended gathering data and past reports, writing a response to the questionnaire, and speaking with the researchers on the phone. Personnel to be contacted in each jurisdiction include the Chief of Police, a traffic unit/ASE unit commander, and a data person at each agency. In total, we estimate the need to contact a maximum total of 320 individuals (80 agencies x 4 individuals = 320 individuals contacted). The respondents would not incur any reporting cost from the information collection beyond the time to respond to the information request and they would not incur any record keeping burden or record keeping cost from the information collection.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2010–22730 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[U.S. DOT Docket Number NHTSA–2010–0085]

National Highway Traffic Safety Administration Reports, Forms and Record Keeping Requirements: Agency Information Collection Activity Under OMB Review

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

ACTION: **Federal Register** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on June 17, 2010 (75 FR 34521).

DATES: Comments must be submitted by October 13, 2010.

FOR FURTHER INFORMATION CONTACT: Samuel Daniel Jr. at the National Highway Traffic Safety Administration (NHTSA), Office of Crash Avoidance Standards (NVS–120). Telephone (202) 366–4921, Fax (202) 366–7002); 1200 New Jersey Ave., SE., W42–474, Washington, DC 20590. *sam.daniel@dot.gov.*

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR 571.116, Motor Vehicle Brake Fluids.

OMB Number: 2127–0521.

Type of Request: Extension of a currently approved collection. This request for an extension of a currently approved collection, if approved, will allow the Department of Transportation (DOT) to continue to enforce the labeling requirements for motor vehicle brake fluid and hydraulic mineral oil containers as specified in FMVSS No. 116, *Motor Vehicle Brake Fluids.*

Abstract: Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids,* specifies performance and design requirements for motor vehicle brake fluids and hydraulic system mineral oils. Section 5.2.2 of the standard specifies labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The label on a container of motor vehicle brake fluid or hydraulic system mineral oil is permanently attached, clearly states the contents of the container, and includes a DOT symbol indicating that the contents of the container meet the requirements of FMVSS No. 116. The label is necessary to help ensure that these fluids are used for their intended purpose only and the containers are properly disposed of when empty. Improper use, storage, or disposal of these fluids could represent a significant safety hazard for the operators of vehicles or equipment in which they are used and for the environment.

Affected Public: Business or other for profit organizations.

Estimated Total Annual Burden: 7000 hours.

Estimated Number of Respondents: 200.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer or to the Docket Management System, Docket Number NHTSA–2010–0085 at *http://www.regulations.gov/.*

Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the DOT, including whether the information will have practical utility; the accuracy of the DOT estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB or the Docket Management System is most effective if OMB or the Docket Management System receives it prior to October 13, 2010.

Issued on: September 3, 2010.

Joseph S. Carra,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2010–22646 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2010–0130]

Reports, Forms, and Recordkeeping Requirements

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

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 the 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 12, 2010.

ADDRESSES: Direct all written comments to: U.S. Department of Transportation, Docket Management Facility, West Building, 1200 New Jersey Ave., SE., Room W12–140, Washington, DC 20590. You may also submit comments electronically at *http://www.regulations.gov.* All comments should refer to the docket no. NHTSA–2009–0052.

FOR FURTHER INFORMATION CONTACT: Randolph Atkins, PhD, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–131), National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. Phone number: 202–366–5597. E-mail address: *randolph.atkins@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must 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 regulations (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; and

(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 submissions of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

National Survey of Speeding Attitudes and Behavior: 2010

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—September 1, 2013.

Summary of the Collection of Information—NHTSA proposes to conduct a National Survey of Speeding Attitudes and Behavior by telephone among a national probability sample of 6,000 drivers, age 16 and older. Participation by respondents would be voluntary. Survey topics would include the extent to which drivers speed, attitudes and perceptions about speeding, reasons and motivations for speeding, and knowledge and attitudes towards countermeasure strategies to deter speeding.

In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. Interviews will be conducted with respondents using landline phones and with respondents using cell phones. The proposed survey would be anonymous; the survey would not collect any personal information

that would allow anyone to identify respondents.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives, prevent injuries, and reduce healthcare and other economic costs associated with motor vehicle crashes. Over thirty percent of all fatal crashes are estimated to be speed-related crashes, defined as racing, exceeding the speed limit, or driving too fast for conditions. Speed-related crashes resulted in 11,674 lives lost in 2008 and an estimated cost of $40.4 billion in 2000. In order to plan and evaluate programs intended to reduce speed-related crashes, NHTSA periodically conducts telephone surveys to update its knowledge and understanding of the public's attitudes and behaviors with respect to speeding issues.

NHTSA has conducted two previous administrations of the National Survey of Speeding Attitudes and Behavior—once in 1997 and again in 2002. In the 2010 survey, NHTSA intends to examine the extent to which drivers speed, who the speeders are, when and why drivers speed, and what countermeasures are most acceptable and effective in reducing speeding. Furthermore, NHTSA plans to assess whether or not self-reported behaviors, attitudes, and perceptions regarding speeding and associated countermeasure strategies have changed over time, since the administration of the 1997 and 2002 national surveys. The 2010 survey will also include new questions on emerging speed-related technologies. The findings from this proposed collection of information will assist NHTSA in designing, targeting, and implementing programs intended to reduce speed on the roadways and to provide data to States, localities, and law enforcement agencies that will aid in their efforts to reduce speed-related crashes and injuries.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, the Contractor would conduct telephone interviews averaging approximately 20 minutes in length with 6,000 randomly selected members of the general driving public, age 16 and older. The respondent sample would be selected from all 50 States and the District of Columbia. Interviews would be conducted with randomly selected persons with residential phones or cell phones. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview.

Prior to the administration of the survey, a total of 15 pretest interviews, averaging 20 minutes in length would be administered to test the computer programming of the questionnaire, and to determine if any final adjustments to the questionnaire are needed. Following any revisions carried out as a result of the pretest, the Contractor would begin the main survey administration.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information—NHTSA estimates that respondents will spend an average of 20 minutes each to complete the survey, for a total of 2,005 hours for the 15 pretest respondents and 6,000 survey respondents. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any recordkeeping burden or recordkeeping cost from the information collection.

Authority: 44 U.S.C. 3506(c)(2)(A).

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2010–22729 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0208]

Agency Information Collection Activities; Extension of Currently Approved Collection: Transportation of Hazardous Materials, Highway Routing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests approval to extend an existing ICR titled, "Transportation of Hazardous Materials, Highway Routing." The information reported by States and Indian tribes is necessary to identify designated/restricted routes and restrictions or limitations affecting how motor carriers may transport certain hazardous materials on their highways, including dates that such routes were established and information on subsequent changes or new hazardous materials routing designations.

DATES: We must receive your comments on or before November 12, 2010.

ADDRESSES: You may submit comments bearing the Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA–2010–0208 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington DC 20590–0001 between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington DC, 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or post card or print the acknowledgement page that appears after submitting them on-line.

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 of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo..gov/2008/pdf/E8–785.pdf*.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Bomgardner, Hazardous Materials Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–493–0027; e-mail *paul.bomgardner@dot.gov*.

SUPPLEMENTARY INFORMATION: *Background:* The data for the Transportation of Hazardous Materials; Highway Routing ICR is collected under authority of 49 U.S.C. 5112 and 5125. Specifically, 49 U.S.C. 5112(c) requires that the Secretary, in coordination with the States, "shall update and publish periodically a list of currently effective hazardous material highway route designations."

Under 49 CFR 397.73, the FMCSA Administrator has the authority to request that each State and Indian tribe, through its routing agency, provide information identifying hazardous materials routing designations within their jurisdictions. That information is collected and consolidated by FMCSA and published annually, in whole or as updates, in the **Federal Register**.

Title: Transportation of Hazardous Materials, Highway Routing.

OMB Control Number: 2126–0014.

Type of Request: Extension of a currently-approved information collection.

Respondents: The reporting burden is shared by 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the U.S. Virgin Islands.

Frequency: Annually.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden Hours: 13 hours [51 annual respondents × 1 response × 15 minutes per response/60 minutes per response = 12.75 hours, rounded to 13 hours].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued on: September 7, 2010.

Terry Shelton,

Office Director for Research and Analysis.

[FR Doc. 2010–22734 Filed 9–10–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35141]

U. S. Rail Corporation—Construction and Operation Exemption—Brookhaven Rail Terminal

AGENCY: Surface Transportation Board.

ACTION: Notice of Board Action.

SUMMARY: Subject to environmental mitigation conditions, the Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for U. S. Rail Corporation (U. S. Rail) to construct and operate a line of railroad at a 28-acre site to be known as the Brookhaven Rail Terminal (BRT), in Brookhaven, Suffolk County, N.Y. According to U. S. Rail, the total length of the track to be constructed is about 18,000 feet. The purpose of the proposed construction is to enable U. S. Rail to serve the BRT as a common carrier and to deliver up to 500,000 tons of aggregate annually from sources in upstate New York to Sills Road Realty, LLC (Sills), the owner of the underlying property, and its affiliates and related companies on Long Island. The project is intended to reduce Sills' reliance on truck transport of aggregate through the New York City metropolitan region.

DATES: The exemption will be effective on September 20, 2010. Petitions to reconsider must be filed on September 20, 2010.

ADDRESSES: An original and 10 copies of all pleadings, referring to FD 35141, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of all pleadings must be served on petitioner's representative: James Savage, John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph Dettmar, (202) 245–0395. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 8, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–22756 Filed 9–10–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[DOT Docket No. DOT–OST–2010–0074]

The Future of Aviation Advisory Committee (FAAC) Subcommittee on Financing; Notice of Meeting

AGENCY: U.S. Department of Transportation, Office of the Secretary of Transportation.

ACTION: Notice of meeting.

SUMMARY: The Department of Transportation, Office of the Secretary of Transportation, announces a meeting of the FAAC Subcommittee on Financing, which will be held at the corporate headquarters of United Airlines, 77 West Wacker Drive, Chicago, Illinois 60601. This notice announces the date, time, and location of the meeting, which will be open to the public. The purpose of the FAAC is to provide advice and recommendations to the Secretary of Transportation to ensure the competitiveness of the U.S. aviation industry and its capability to manage effectively the evolving transportation needs, challenges, and opportunities of the global economy. The Subcommittee on Financing will address the need for a stable, secure, and sufficient level of funding for our aviation system and make recommendations to the Secretary for action. This is the third meeting of this subcommittee.

DATES: The meeting will be held on September 29, 2010, from 9 a.m. to 4 p.m. Central Daylight Time.

ADDRESSES: The meeting will be held at the corporate headquarters of United Airlines, 77 West Wacker Drive, Chicago, Illinois 60601.

Public Access: The meeting is open to the public. (*See* below for registration instructions.)

Public Comments: Persons wishing to offer written comments and suggestions concerning the activities of the advisory committee or Subcommittee on Financing should file comments in the Public Docket (Docket Number DOT–OST–2010–0074 at *www.Regulations.Gov*) or alternatively through the *FAAC@dot.gov* e-mail. If

comments and suggestions are intended specifically for the Subcommittee on Financing, the term "Finance" should be listed in the subject line of the message. To ensure such comments can be considered by the subcommittee before its September 29, 2010, meeting, public comments must be filed by 5 p.m. Eastern Daylight Time on Friday, September 24, 2010.

SUPPLEMENTARY INFORMATION:

Background

Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of an FAAC Subcommittee on Financing meeting taking place on September 29, 2010, from 9 a.m. to 4 p.m. Central Daylight Time, at the corporate headquarters of United Airlines, 77 West Wacker Drive, Chicago, Illinois 60601. The agenda includes—

1. Possible briefings on selected additional topics related to aviation financing and discussion.

2. Continued discussion and analysis of areas of interest for making recommendations to the Secretary of Transportation.

Registration

The meeting room and teleconference can each accommodate up to 25 members of the public. Persons desiring to attend in person or via telephone must pre-register by September 24, 2010, through e-mail to *FAAC@dot.gov.* The term "Registration: Financing" should be listed in the subject line of the message, and in-person and teleconference admission will be limited to the first 25 persons to pre-register and receive a confirmation of their pre-registration. Call-in information will be provided to members of the public who register to participate in the teleconference. Minutes of the meeting will be taken and will be made available to the public.

Request for Special Accommodation

The DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please send a request to *FAAC@dot.gov* with the term "Special Accommodations" listed in the subject line of the message by close of business on September 24, 2010.

FOR FURTHER INFORMATION CONTACT: John Hennigan, Air Traffic Organization, Federal Aviation Administration, 800 Independence Avenue, SW., Room 409, Washington, DC 20591; (202) 631–6644.

Issued in Washington, DC on September 7, 2010.

Pamela Hamilton-Powell,

Designated Federal Official, Future of Aviation Advisory Committee.

[FR Doc. 2010–22694 Filed 9–10–10; 8:45 am]

BILLING CODE 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.

Railtown 1897 State Historic Park

[Waiver Petition Docket Number FRA–2010–0092]

The Railtown 1897 State Historic Park (Railtown), an excursion train operating in Jamestown, California, seeks a waiver of compliance from the Safety Glazing Standards of 49 CFR 223.11 *Requirements for existing locomotives.* Specifically, Railtown has petitioned FRA for a waiver for four diesel locomotives: Former U.S. Navy locomotives 613 and 612, built by Alco in 1953; former U.S. Army locomotive 1265, built by Baldwin/Whitcomb in 1952; and former U.S. Army locomotive 1638, built by General Electric in 1952.

Railtown operates weekends only from April through March on three miles of track in a lightly settled area with a fifteen mph speed restriction. The locomotives are primarily used in yard switching service and on rare occasions provide back-up service for Railtown's historic steam locomotives.

Additionally, Railtown states the combined annual operation of their diesel locomotives is less than 200 hours per year, and that in 26 years of operation as a state historic park, they have not sustained any incidents of breakage on their locomotives. Railtown estimates glazing costs to be in excess of $20,000.00, and believes it is not economically justified to replace the glass in light of the ages of the locomotives, low risk of vandalism and the extremely low hours of operation.

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–2010–0092) 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 September 7, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22728 Filed 9–10–10; 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.

Beaver Lawrence Railway Historical Society

[Waiver Petition Docket Number FRA–2010–0121]

The Beaver Lawrence Railway Historical Society (Society) seeks a waiver of compliance from certain provisions of 49 CFR part 215, *Railroad Freight Car Safety Standards,* specifically 49 CFR 215.303 (Stenciling of restricted cars), which requires that restricted railroad freight cars shall be stenciled or marked in clearly legible letters with the letter "R" and a series of designated terms to completely indicate the basis for the restricted operation of the car. In addition, the Society seeks a waiver of compliance from certain provisions of 49 CFR part 223, *Safety Glazing Standards,* specifically 49 CFR 223.13 (Requirements for existing cabooses), and all of 49 CFR part 224, *Reflectorization of Rail Freight Rolling Stock.*

Specifically, the Society's petition concerns four caboose cars: former PRR 477974, built in 1942; former NKP 479, built in 1962; former PC 18216, built in 1968; and former KKRR 604, built in 1902, and rebuilt in 1986. Two of the Society's caboose cars in the present petition are more than 50 years old, measured from the date of original construction, and these caboose cars are the subject of a parallel petition for special approval for continued operation under § 215.203(c). Therefore, in the first portion of its petition, the Society seeks a waiver of the requirement for stenciling found in § 215.303, as the Society states that the stenciling would detract from both the aesthetic and historical nature of the vintage rail car equipment. Secondly, the Society petitions for relief from the glazing requirements of § 223.13 for caboose NKP 479 due to the financial hardship to the Society. Finally, the Society petitions for relief from all of the requirements of 49 CFR Part 224, as the railroad states that reflectorization would detract from both the aesthetic and historical nature of their vintage equipment.

The Society states that the regulations for which relief are requested are inherently in conflict with the Society's educational mission and not relevant to daylight only, non-interchange operation. The Society also states that the costs of compliance are disproportionate to the value of the equipment and detract from the historical accuracy of the cars.

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–2010–0121) 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 September 7, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22726 Filed 9–10–10; 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.

Kansas City Southern Railroad Company

[Waiver Petition Docket Number FRA–2010–0127]

The Kansas City Southern Railroad Company (KCS) has petitioned for a waiver of compliance from the requirements of 49 CFR part 229, *Railroad Locomotive Safety Standards,* specifically § 229.49(a)(1), which states that main reservoir system of each locomotives shall have a safety valve to prevent accumulation of pressure more than 15 psi above the maximum working air pressure. The specific petition requests relief for 235 locomotives numbered KCS 4575–4624, KCSM 4500–4574, KCS 4680–4709, KCSM 4650–4679, and KCSM 4710–4759. KCS seeks authority to continue to operate with the main reservoir safety valve set at 150 psi with a maximum air pressure of 130 psi. KCS believes that there have been no adverse effects on the safety of operations and that safety is in no way compromised.

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–2010–0127) 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 September 7, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–22709 Filed 9–10–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 3, 2010.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by contacting the Treasury Department Office Clearance Officers listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before October 13, 2010 to be assured of consideration.

Office of Financial Stability (OFS)

OMB Number: 1505–0209.

Type of Review: Revision of a currently approved collection.

Title: Troubled Asset Relief Program—Conflicts of Interest.

Abstract: The interim rule sets forth the process for reviewing and addressing actual or potential conflicts of interest among any individuals or entities seeking or having a contract or financial agency agreement with the Treasury for services under the Emergency Economic Stabilization Act of 2008 (EESA). Section 108 of the EESA requires Treasury to develop guidelines for addressing conflicts of interest as soon as practicable after enactment of the law.

Respondents: Businesses or other for-profits; Individuals or Households.

Estimated Total Reporting Burden: 3,446 hours.

OMB Number: 1505–0219.

Type of Review: Revision of a currently approved collection.

Title: TARP Capital Purchase Program—Executive Compensation.

Abstract: Authorized under the Emergency Economic Stabilization Act of 2008 (EESA), Public Law 110–343, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5, the Department of the Treasury (Treasury) established the Troubled Asset Relief Program (TARP) to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution on such terms and conditions determined by the Secretary. Section 111 of EESA, as amended by ARRA, provides that certain entities receiving financial assistance from Treasury under TARP (TARP recipients) will be subject to specified executive compensation and corporate governance standards established by the Secretary. These standards were set forth in the interim final rule published on June 15, 2009 (74 FR 28394), as corrected on December 7, 2009 (74 FR 63990) (the Interim Final Rule). The standards implemented in the Interim Final Rule require that TARP recipients submit certain information pertaining to their executive compensation and corporate governance practices.

Respondents: Businesses or other for-profits.

Estimated Total Reporting Burden: 12,151 hours.

OFS Clearance Officer: Daniel Abramowitz, OFS, 1801 L Street, NW., Washington, DC 20036; (202) 927–9645.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2010–22750 Filed 9–10–10; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the National Research Advisory Council will hold a meeting on Tuesday, September 21, 2010, at the Phoenix Park Hotel, Federal City Room, 520 North Capitol Street, NW., Washington, DC. The meeting will convene at 9:30 a.m. and end at 4 p.m. The meeting is open to the public. The purpose of the Council is to provide external advice and review for VA's research mission.

The agenda will include a review of the VA research portfolio and a scientific presentation by a VA researcher. The Council will also provide feedback on the direction/focus of VA's research initiatives.

Any member of the public wishing to attend the meeting or wishing further information should contact Margaret Hannon, Designated Federal Officer, at (202) 461–1696. Oral comments from the public will be allowed from 2:45 p.m. to 4 p.m. Comments will be limited to 5 minutes per person. Written statements or comments should be transmitted electronically to *Margaret.Hannon@va.gov* or mailed to Margaret Hannon at Department of Veterans Affairs, Office of Research and Development (12), 810 Vermont Avenue, NW., Washington, DC 20420.

Date: September 7, 2010.

By Direction of the Secretary.

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. 2010–22675 Filed 9–10–10; 8:45 am]

BILLING CODE P

Federal Register

Monday,
September 13, 2010

Part II

Environmental Protection Agency

40 CFR Parts 51, 60, 61, et al.
Restructuring of the Stationary Source Audit Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 60, 61 and 63

[EPA–HQ–OAR–2008–0531; FRL–9195–7]

RIN 2060–AP23

Restructuring of the Stationary Source Audit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to promulgate amendments to the General Provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. All requirements pertaining to the audit samples have been moved to the General Provisions and have been removed from the test methods because the current language in the test methods regarding audit samples is inconsistent from method to method. Therefore, deleting all references to audit samples in the test methods eliminates any possible confusion and inconsistencies. Under this final rule, the requirement to use an audit sample during a compliance test will apply to all test methods for which a commercially available audit exists.

DATES: This final rule is effective 30 days after September 13, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0531. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Restructuring of the Stationary Source Audit Program Docket, Docket ID No. EPA–OAR–2008–0531, EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday excluding legal holidays. The docket telephone number is (202) 566–1742. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (E143–02), Research Triangle Park, NC 27711; telephone number: (919) 541–1064; fax number: (919) 541–0516; e-mail address: *sorrell.candace@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action would apply to you if you operate a stationary source that is subject to applicable requirements to conduct compliance testing under 40 CFR parts 60, 61, and 63.

In addition, this action would apply to you if Federal, State, or local agencies take certain additional actions. For example, this action would apply if State or local agencies implement regulations using any of the stationary source compliance test methods in Appendix M of Part 51 by adopting these methods in rules or permits (either by incorporation by reference or by duplicating the method in its entirety).

The source categories and entities potentially affected include, but are not limited to, the following:

Category	NAICS [a]	Examples of regulated entities
Industry	336111 336112	Surface Coating.
Industry	332410	Industrial, Commercial, Institutional Steam Generating Units.
Industry	332410	Electric Generating Units.
Industry	333611	Stationary Gas Turbines.
Industry	324110	Petroleum Refineries.
Industry	562213	Municipal Waste Combustors.
Industry	322110	Pulp and Paper Mills.

[a] North American Industry Classification System.

B. Where can I obtain a copy of this action and other related information?

In addition to being available in the docket, an electronic copy of the final rule is also available on the Worldwide Web (*http://www.epa.gov/ttn*) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

C. How is this document organized?

The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I obtain a copy of this document and other related information?
C. How is this document organized?
II. Background
III. This Action
IV. Public Comments on the Proposed Rule
A. Accreditation Program vs. Audit Program
B. Alternatives to Restructuring the Audit Program
C. Test Method Bias With Respect to the Audit Program
D. Terms Need Defining or Clarifying
E. Audit Sample Failure and Non-Compliance
F. Reporting Period
G. Choosing Correct Concentration for an Audit Sample
H. Cost Estimates
I. Requiring the Same Analyst and Analytical System for Sample Analysis
J. When are audit samples required?
K. Audit Sample Availability
L. Setting Acceptance Limits
M. Audit Samples Should Not Apply to Instrumental Methods
N. Notice and Comment Procedure
O. Field Analysis of Audit Samples
P. Audit Sample Matrix
Q. Audit Results Reporting and Availability
R. External QA Program
S. No Justification for the Program
T. Consistency
U. Ordering Audit Samples
V. EPA Maintained List of Audit Providers
W. 2003 Study on Quality Gas Cylinder Samples
X. Proposal Is Premature
Y. Voluntary Consensus Standards Body (VCSB) Standard Does Not Meet EPA's Needs
Z. Gas Audit Samples Entry Point
V. Judicial Review

VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

II. Background

The Restructuring of the Stationary Source Audit Program (SSAP) was proposed in the **Federal Register** on June 16, 2009, with a public comment period that ended July 16, 2009 (74 FR 28451). A public commenter asked that the comment period be extended. We extended the public comment period until August 5, 2009 (74 FR 31903). A total of 21 comment letters were received on the proposed rule. We have compiled and responded to the public comments and made appropriate changes to the final rule based on the comments.

III. This Action

This action finalizes revisions to the General Provisions of Parts 51, 60, 61, and 63 to allow accredited audit sample providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as was the practice. It also revises test methods 5I, 6, 6A–C, 7, 7A–D, 8, 15A, 16A, 18, 23, 25, 25C, 25D, 26, 26A, 104, 106, 108, 108A–C, 204A–F, 306, 306A, and 308 to delete any language pertaining to audit samples. By adding language to the General Provisions of Parts 51, 60, 61 and 63, the requirement to obtain and use audits for stationary source compliance testing using EPA stationary source test methods is expanded and clarified. The previous General Provisions and EPA test methods were not consistent in their language concerning the use or availability of audit samples. This action will potentially increase the number of test methods required to use audit samples and clarify how the samples are to be obtained and used. By clarifying the requirement for audit samples and expanding their availability through multiple providers, EPA believes audit samples will be used during more compliance tests and, therefore, the overall quality of the data used for determining compliance will improve.

This action finalizes the regulatory criteria which list the minimum requirements for the audit samples, the accredited audit sample providers (AASP), and the audit sample provider acceditor (ASPA). The AASP is the company that prepares and distributes the audit samples and the ASPA is a third-party organization that will accredit and monitor the performance of the AASPs. Both the AASP and the ASPA must work with a Voluntary Consensus Standard Body (VCSB) using the consensus process to develop criteria documents that describe how they will function and meet EPA regulatory criteria listed in this rule. The Federal Office of Management and Budget Circular A–119 defines a VCSB as one having the following attributes: (i) Openness; (ii) balance of interest; (iii) due process; (iv) an appeals process; and (v) consensus, which is general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties. As long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reason(s) why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

AASPs must be accredited by an ASPA according to a technical criteria document developed by a VCSB. The technical criteria document must meet EPA regulations. There may be many AASPs and more than one ASPA and VCSB. We predict that initially there will only be one VCSB.

This action finalizes language that outlines the responsibilities of the regulated source owner or operator to acquire and use an audit sample for all testing conducted to determine compliance with an air emission limit. The requirement applies only if there are commercially available audit samples for the test method used during the compliance testing. The source owner, operator or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the appropriate compliance authority.

In addition to allowing private AASPs to provide audit samples for the stationary source audit program, this action shifts the burden of obtaining an audit sample from the compliance authority to the source. In the past, the EPA provided the samples to the compliance authorities at no cost, but this action requires the source to purchase the samples from an accredited provider. The samples will vary in cost depending on the type of audit sample required; however, the cost will be a very small portion of the cost of a compliance test (approximately one percent). Based on historical data, EPA estimates that the total cost to industry to purchase audit samples will be between $150,000 to $200,000 per year at the current usage rate.

IV. Public Comments on the Proposed Rule

A more detailed summary of the public comments and our responses can be found in the Summary of Public Comments and Responses document, which is available from several sources (*see* **ADDRESSES** section). The major public comments are summarized by subject as follows:

A. Accreditation Program vs. Audit Program

Comment: Several comments suggested that the audit program was not needed due to the existence of accreditation programs for laboratories or that EPA should conduct a proficiency testing program as part of an accreditation program.

Response: An accreditation program or proficiency testing program serves a different purpose than an audit program. An accreditation program looks to see if the laboratory has the capabilities to conduct the analysis in question. The audit program is an event driven program that looks to see at a particular time that the combination of equipment and analyzer is able to analyze the sample within an acceptable range. Analyzing the audit samples at the same time as the field samples using the same equipment and analyst give the compliance authorities and the regulated community more confidence in the test results.

B. Alternatives to Restructuring the Audit Program

Comment: A number of commenters suggested alternatives to our proposed restructuring of the audit program to allow for independent accredited audit sample providers. These alternatives included maintaining the audit program as it currently stands in order to maintain oversight/authority, charging for audit samples, or conducting an EPA accreditation program for audit sample providers.

Response: We retain oversight authority over all parties who develop

information required by EPA to fully assess the proper implementation of the Clean Air Act (CAA). Section 114 of the Act gives EPA the authority to require the production of information, test results and answers to questions EPA may ask. We do not believe that it is necessary for EPA to directly provide or approve specific audit samples in order to ensure integrity in this program.

We do not believe it is necessary to develop a program to certify audit providers when there are already Voluntary Consensus Bodies in existence that have the capabilities to develop such a program with the input from a wide variety of stakeholders. Also, EPA is not legally allowed to charge for the samples. It would be a violation of the Miscellaneous Receipts Statute, 331 U.S.C. Section 3302(b), in addition to being an unlawful augmentation of EPA's Congressional appropriation.

C. Test Method Bias With Respect to the Audit Program

Comment: One commenter noted that by definition a performance audit is intended to provide a measure of test data bias. The commenter stated that this program is presumably intended as an audit of emissions sampling and analysis that would include the sampling technique, sample handling, sample preparation, and sample analysis accounting for the measurement biases relative to all steps of the process. However, this is not clear in the proposed rule. Please clarify the intent of the performance audit.

Response: Most of the current audit samples only evaluate the analysis portion of the method; we believe that in the future restructured program more audits will assess the effect of sampling and handling because we defined blind audit sample as follows: "A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that will be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source."

D. Terms Need Defining or Clarifying

Comment: Several commenters requested that the following terms be defined in the final rule: Commercially available and true value.

Response: We agree that "commercially available" and "true value" need to be defined. The final rule has been revised to state that an audit sample is "commercially available" when there are two or more sources for obtaining the audit sample. "True value" is the spiked/expected value of the audit.

Comment: One commenter suggested that the term "performance audit" be revised to include the potential for field collection of audit samples.

Response: Our intent was to include field collection and analysis in the definition of performance audit. We revised the definition in the final rule to state that if gaseous audits are available then they must be collected by the field sampling system during the compliance test just as the compliance samples are collected.

E. Audit Sample Failure and Non-Compliance

Comment: Seven commenters oppose the use of audit samples as evidence of non-compliance and believe the audit sample results should only be used as a tool to assess the quality of the compliance testing results but not as the sole reason for finding a facility in non-compliance when the emission test may demonstrate compliance.

Response: We believe the audit sample results can and should be used to assess the quality of test results for compliance purposes, but those audit sample results can and should, as appropriate, also be used to assist in establishing non-compliance. Sources may present whatever credible evidence they have to compliance officials indicating whether or not the audit sample results have a significant bearing on the compliance test results.

Comment: Three commenters recommended that the rule provide a means to appeal or question a retest or compliance action as the result of a failed audit. They believe that EPA should provide oversight authority to referee such situations, while one commenter suggested a procedure to require the audit sample be reanalyzed by the accredited audit sample provider.

Response: Audit samples are not the only criterion used to evaluate the quality of the test data; therefore, we do not expect disputes to be common. We believe that disputes involving failed audits can be negotiated by the parties.

F. Reporting Period

Comment: Three commenters requested that the final rule include additional time to submit a final report if audit results must be included in the report or delete the requirement to include the pass/fail results in the final report.

Response: Since the purpose of an audit sample is to support the credibility of a particular test result, it is important that the pass/fail result of the audit sample be included in the final test report. By privatizing the audit program, facilities will be able to get audit results directly from the AASPs which will be much quicker then obtaining them from the compliance authorities as in the past. Since the procedure for obtaining audit results will now be quicker, the final rule does not include additional time to submit a final report.

G. Choosing Correct Concentration for an Audit Sample

Comment: One commenter expressed concern that the proposed rule did not provide for compliance authority input into the supplied audit concentration levels. This commenter pointed out that while the proposal specifies that the source provide an estimate of the pollutant concentration(s), there is no compliance authority confirmation, nor the option for the compliance authority to make specific requests based on the needs for the given test program.

Response: We agree that the compliance authority should have the opportunity for input into the supplied audit sample concentration level. The final rule has been revised to require that an acceptable criteria document must provide the opportunity for the compliance authority to comment with the supplied audit sample concentration levels.

Comment: One commenter stated that Section 60.8(g)(1), "When ordering an audit sample, the source operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source and the name, address, and phone number of the compliance authority" will cause confusion because a source may or may not know the concentration of the pollutant of concern. Because EPA's interest is in ensuring that the emission standards are being met, the commenter suggested that the requirement should be to provide information on the standard the facility has to meet and the concentration that would be expected if the emissions equaled the permitted level.

Response: We agree that the facility could provide information based on the facility standard or permit level instead of exact emissions. The rule has been revised to allow this option.

H. Cost Estimates

Comment: Four commenters stated that the cost estimates for audit samples

are low. The commenters also asserted that the cost will be more than the EPA's estimate of approximately 1 percent of a source test. One commenter cited an example where a NELAC Performance Test (PT) sample initially cost $150 and quickly increased to over $900 for just a standard SO_2 gas audit sample.

Response: The commenter did not present any evidence to support this cost, and we were not able to substantiate the claim. According to discussions with the Executive Director of The NELAC Institute, the current cost range of SO_2 PT samples is approximately $95 to $108, and we expect the cost for the SO_2 audit samples to be about the same because they are made exactly the same and only used for different purposes. The cost estimates discussed in the proposed rulemaking are based on the last ten years that EPA has operated the program.

Comment: Seven commenters stated that EPA significantly underestimated the cost of the audit program because EPA did not include the analytical fees associated with the audit.

Response: Analytical fees are not a new cost. Facilities have always been required to pay for the analysis of the audit samples even under the current program where we have provided the audit samples free of charge. Therefore, we do not believe it is appropriate to add analytical fees to the estimated cost for the program.

Comment: One commenter expressed concern that the cost estimates and the Information Collection Request (ICR) are woefully incomplete. This commenter stated that EPA's estimate should include the total costs and burdens imposed on sources by the proposed new SSAP such as the cost to sources for purchasing audit samples, analyzing (and in some cases reanalyzing) audit samples, reporting audit sample results and other information, developing and implementing the other aspects of the proposed "external QA program," and participating initially and every two years thereafter in the proposed VCSB "public process" to ensure that criteria developed by those organizations are reasonable, and not just the cost incurred by the AASP to report the true value of the audit sample. This commenter believes that the burden estimate should also include the cost to EPA of reviewing and approving proposed "written technical criteria documents" and otherwise participating in the VCSB process. This commenter believes that EPA could limit the ICR to the cost incurred by the AASP to report the true value of the audit sample only if the other burdens already were covered under an approved ICR for the period in question.

Response: The ICR estimate of burden includes the estimated cost for the AASP to report the results of the audit to the compliance authority. In addition, the ICR has been revised to include the cost of the audit sample since in the past the audit samples were free. The cost of the requirement to analyze (and in some cases reanalyze) audit samples and reporting audit sample results has already been taken into account in past ICRs for each emission limit under the New Source Performance Standards which contained a burden estimate for reporting emission testing results to demonstrate compliance with emission limits. We believe that not all compliance tests that should be audited are being audited under the current program. We believe under the restructured program the rate of compliance with the audit requirement will be higher; therefore, we have revised the ICR to reflect the fact that more audit samples will be purchased. The final rule does not require anyone to participate in the VCSB "public process" and, therefore, the cost of participating was not included in the ICR.

I. Requiring the Same Analyst and Analytical System for Sample Analysis

Comment: Two commenters are concerned about the requirement that the audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system as the compliance samples. These commenters pointed out that there may be several gas chromatograph/mass spectrometers in a particular lab, and all of these instruments are calibrated and certified, so that it does not matter which of these instruments are used to analyze an individual sample.

Response: While EPA agrees that identical instruments calibrated by the same reagents should give the same answer within repeatability limits, EPA also believes that it is important to limit all sources of imprecision and, therefore, the audits should be analyzed using the same analyst and the same analytical system as the compliance test samples.

Comment: One commenter stated that the requirement that the "audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system as the compliance samples" should be expanded to specify analyzing them in the same batch as the compliance samples and, if they are collected in the field, to collect them with the same person(s), using the same reagents and collection system. This commenter suggested that if field testers use different sampling trains to collect compliance samples during different test runs, from then the tester should collect audit samples with all the trains and analyze the samples from the different trains separately or as a composite.

Response: We have revised the final rule to clarify how field audits should be collected when the audit sample is designed to check the sampling system. The final rule requires that field audits must be collected using the same field testing person who collected the field samples using one of the field sampling systems that was used to collect the compliance samples. If multiple sampling systems were used, the rule will not require that each sampling train used during the field test be used to collect an audit sample. The revised rule also requires that the audit samples must be analyzed at the same time as the test samples unless the compliance authority waives this requirement.

J. When are audit samples required?

Comment: Two commenters believe it makes more sense for the source and the compliance authority to discuss the need for an audit sample on a case-by-case basis instead of EPA making it mandatory for each individual test.

Response: The requirement for an audit sample is nothing new. Current regulations require audit samples if they are available and we do not see a need to change the requirement. We believe that the program should be administered consistently across the Nation and the only way to do that is to require the tester to include an audit sample with all compliance tests using methods for which audits are available. The compliance authority can always waive the requirement to include an audit sample for a specific compliance test if they believe the audit sample is not necessary.

Comment: Four commenters stated that the proposed rule was unclear with respect to how many audit samples may be required during a given performance test. They stated that if the same method is used and the same pollutant is sampled, then only one audit sample should be necessary for the entire set of samples collected during a test program.

Response: We agree that only one audit sample per method used during a performance test is needed so long as all pollutants measured using that method are covered by the audit sample. The final rule has been revised to clarify this.

K. Audit Sample Availability

Comment: Two commenters are concerned that the timing for checking on availability of a specific pollutant audit sample does not mesh with the 60-day requirement to submit a test protocol for approval by the permitting authority. The commenters suggested that the cut-off date for sources to locate and incorporate audit sample requirements into a performance test plan must be at least three months prior to submitting the test protocol to their permitting authority.

Response: There is no requirement under the amended SSAP program to submit a test protocol for approval by the compliance authority. If a source chooses to voluntarily prepare and submit a test protocol, the protocol could incorporate audit sample requirements that would have to be met only if an audit sample became available 60 days prior to the scheduled test date.

Comment: One commenter stated that EPA presumes that there will be Accredited Audit Sample Providers or Accredited Proficiency Test Sample Providers willing to get in the business of supplying the necessary audits for all applicable methods. The commenters suggested that EPA should plan for a transition period if there is a delay in getting providers accredited.

Response: We anticipate that audit samples will be available for most if not all the methods for which EPA currently provides audit samples. We know that The NELAC Institute is currently developing criteria documents and accreditation standards to produce audit standards (*http://www.nelac-institute.org/standards.php*) so we know there is interest in the private sector. We believe there will be an accredited audit program in the future. Therefore, we do not believe that there is a need for a transition period during which EPA would continue to provide audit samples until an accredited audit sample provider is approved. Again, if an audit sample is not available, there is no requirement for use of an audit sample.

Comment: One commenter suggested that PT samples should not be used in place of audit samples, unless PT providers follow the provider requirements and be accepted as an audit sample provider by a provider accreditor, as set forth in the Standards defined by the VCSB they are using.

Response: We agree with this comment. The rule has been revised to remove the option of using PT samples in place of audit samples if audit samples are not available.

Comment: One commenter believes EPA should not allow sources to forgo using an audit sample if the EPA fails to identify a provider on its Web site 60 days before a scheduled test. This commenter contends that EPA should leave the job of identifying providers and which samples are available to the sources that are required to demonstrate compliance.

Response: It takes time to plan and prepare for a source test. We do not want a source to be cited for a violation because an audit sample becomes available a short time before the compliance test. We also do not want sources and testing firms to spend time every day looking for available audit samples. Therefore, we believe the final rule needs to provide a 60-day time frame so that sources can properly plan a compliance test. In addition, listing the available audits on our Web site not only benefits the sources but also the compliance authorities. The list provides one location for them to see what is available; otherwise they too would have to constantly contact providers for information on available audits.

L. Setting Acceptance Limits

Comment: Two commenters are concerned about allowing the VCSBs to determine the audit acceptance criteria. The commenters contend that EPA needs to define its minimum requirements to define the acceptable level of performance for compliance purposes and not leave it up to voluntary consensus organizations.

Response: We agree that EPA needs to define minimum requirements for how the acceptance criteria should be determined in the final rule. The final rule has been revised to specify that acceptance criteria must be based on results from the analysis of audit test samples analyzed by qualified laboratories using the method that is being audited. The final rule requires that acceptance limits must be set so that 90 percent of qualified laboratories would produce results within the acceptance limits for 95 percent of all future audits. This acceptance criterion is consistent with the general goal that EPA established for the program it operated in the past.

M. Audit Samples Should Not Apply to Instrumental Methods

Comment: Three commenters expressed confusion and concern over how audit samples would be applied to instrumental methods and other test methods involving human observers (*i.e.,* Method 9 and 22).

Response: We agree that it is not necessary to require audit samples for those test methods that use instruments to measure pollutants in stack gas samples taken directly from an emission source. These methods include Method 3C, 6C, 7E, 10, 20, 25A, 318, 320, and 321. These methods already have sufficient calibration and quality assurance requirements that would make an additional audit sample redundant. We believe that Method 18 also has sufficient quality assurance measures that make an audit sample unnecessary. This method requires that the tester perform a recovery study through the entire sampling system to demonstrate that the combined sampling and analytical system is capable of measuring the target pollutant within specified limits. The measured results are then corrected to account for the empirically determined recovery. We believe that for this method an audit sample would not add significant additional information about the quality of the measured results. We have revised the final rule to specifically exempt Methods 3C, 6C, 7E, 9, 10, 18, 20, 22, 25A, 303, 318, 320, and 321 from the requirement to have an audit sample. We also agree that Methods 9, 22, and 303 do not need audit samples. These are all methods for determining visible emissions by observation and, therefore, there is no practical way to audit them. The final rule has been revised to exempt these methods from the audit sample requirement.

N. Notice and Comment Procedure

Comment: One commenter believes this proposal turns the requirements of the "National Technology Transfer and Advancement Act of 1995 (NTTAA)" (Pub. L. 104–113) "on its head" because the NTTAA requires EPA (and other Federal agencies) to use standards already adopted by VCSBs, where appropriate, rather than developing their own government-unique standards. In addition NTTAA requires EPA to participate in the development of such standards to help ensure their usefulness in government applications but does not authorize EPA to adopt VCSB standards that do not currently exist, to adopt rules that condition sources' compliance with Federal regulations on a VCSB's adoption of standards, or to require regulated sources to participate in future VCSB proceedings in order to protect their interests.

The commenter also contends that EPA's own regulations do not allow EPA to approve and incorporate by reference future VCSB standards

because it would be an unlawful circumvention of notice and comment procedures, and of limitations on incorporation by reference.

Response: The NTTAA only requires agencies to use VCS in regulatory actions when VCSs are available. There are no current standards adopted by VCSBs for audit samples. We are allowing VCSBs to develop standards for audit samples and allowing these standards to be used for government applications. These audit samples are not used to determine compliance. They are quality assurance tools used during compliance testing to assist in determining the accuracy of the compliance testing. The final rule does not condition a sources's compliance with Federal regulations on a VCSBs adoption of standards. If audit samples do not exist for a particular compliance test, an audit sample is not required. Although some may choose to participate, there is also no requirement that sources participate in future VCSB proceedings.

On the second point, we did not circumvent notice and comment procedures. The final rule establishes minimum requirements for the audit samples, the accredited audit sample providers and the audit sample provider accreditor. We have proposed these criteria for notice and comment. Although audit samples may be produced in the future, the only audit samples that we will accept are those that meet the substantive requirements of this rule. Accordingly, all commenters have had a full opportunity to discuss their concerns with the requirements set for audit samples by this rule.

O. Field Analysis of Audit Samples

Comment: Five commenters requested that the final rule be revised to allow the owner/operator to obtain a waiver from the requirement to have the compliance authority present at the testing site on a case-by-case basis when the method being audited is a method that allows the samples to be analyzed in the field and tester plans to analyze the samples in the field because it may not be practical for a representative from the compliance authority to be on-site for every one of these audit analyses.

Response: We agree that it may not be practical in all cases for a representative of the compliance authority to be present when an audit sample is analyzed in the field, so we revised the final rule to allow the owner/operator to obtain a waiver from the compliance authority for the requirement to have the compliance authority present at the testing site.

P. Audit Sample Matrix

Comment: Three commenters discussed the issue of the audit sample matrix. One commenter felt we needed to be clear about what interferents can and cannot be added to the samples to ensure consistency among the audit providers. Another commenter stated that EPA must specifically require that audit samples include realistic interferents while the third commenter found the use of interferents troubling since the audit providers would not necessarily know what to mimic.

Response: The term sample matrix was not intended to imply that the audit samples were to be prepared in a manner that would duplicate an emission gas stream. The term matrix is only used in conjunction with those samples that do not consist of the pollutant in the gas phase in air or nitrogen. The term matrix was used to indicate that if a method collected the pollutant in a similar aqueous solution, then the audit sample should consist of the pollutant in an aqueous solution. The EPA believes that preparing audit samples in a matrix that would include interferents that might or might not be present in the stack is too complex to be workable. EPA is not requiring that interferents be included in the audit samples.

Q. Audit Results Reporting and Availability

Comment: One commenter believes the compliance authority should be provided a copy of the audit results at the time of shipment from the sample provider because having the results prior to sample analysis helps generate more accurate data and minimizes problems.

Response: We believe that this would be beneficial but should not be mandatory. Since we did not provide the compliance authorities with the actual concentrations under the current audit program, it is hard to justify making it mandatory.

Comment: One commenter suggested that if the audit is conducted in the field and the results of the audit are available prior to conducting the emission tests, the facility should be provided with information on the pass/fail status of the audit test results prior to carrying out the source test. The commenter points out that this would avoid unnecessary testing and waste of resources when the ability of the source tester is in question because of failure to produce acceptable results for the audit sample.

Response: We agree with the commenter, and there is nothing in the final rule to prevent this scenario.

Comment: One commenter stated that audit sample providers should report only pass or fail for the audit sample result and not the true value of the audit sample because audit samples are to be unknowns. This commenter was concerned that if the audit samples are supplied in a limited number of concentrations, then over time this might reveal the true values and would compromise the unknown status of the audit sample.

Response: We agree that the sample's true value needs to remain blind to the sources and laboratories at least until the values are reported. The final rule has been revised to state that only pass or fail results shall be reported unless the accredited audit sample provider ensures that no laboratory will receive the same sample twice.

Comment: One commenter stated that the audit sample provider would be under no compliance (or contractual) obligation to provide a quick turnaround on the audit results, so significant delay could occur during this step, depending on the audit sample provider's availability. This commenter asked EPA to add a regulatory provision requiring the audit sample provider to send out the results of the audit within 7 calendar days.

Response: We agree that it is important that the AASPs provide a quick turnaround of the audit results. The final rule includes a requirement that AASPs submit the results in a timely manner. The AASPs and the sources may decide a more specific time frame.

R. External QA Program

Comment: One commenter expressed confusion and concern about the proposed rule's use of the terminology "External QA program" and that an additional requirement might be added to the external QA program.

Response: The only mandatory requirement under the restructured audit program would be to include an audit sample with each compliance test. EPA has revised the final rule to make this clear.

S. No Justification for the Program

Comment: Five commenters believe that EPA did not provide a justification for continuing the current program or expanding the program. Three commenters felt that the emergence of private providers is an insufficient rationale for the rulemaking.

Response: We disagree. The emergence of private providers is one reason for changing the audit program. We discussed other reasons for privatizing the audit program in the

Notice of Proposed Rule Making. Also, we believe allowing private companies to provide audit samples will: (1) Ensure a wider range of audit sample concentrations that will better match the working range of the methods, (2) provide a more efficient and responsive system for supplying the required samples, (3) ensure greater transparency in the operation of the audit program, (4) produce higher quality audit samples, and (5) ensure a more stable supply of samples.

T. Consistency

Comment: One commenter noted that there was an inconsistency in the proposed rules between the language in Part 51 and that in Part 60. According to this commenter, the language in Part 51 could be interpreted to mean that the results for an audit sample could be reported to the AASP or Accredited PT Sample Providers (APTSP) at some later time after reporting to the compliance authority, whereas the language in Part 60 could be interpreted to mean that the audit sample results should be reported to the compliance authority and to the AASP or APTSP at the same time. The commenter suggested that the statement in Part 51 should be amended to correspond with the statement in Part 60.

Response: We agree that the two statements should be consistent. The final rule has been revised so all parts require that the audit sample results be reported to the compliance authority and the audit sample provider at the same time.

Comment: One commenter suggested that we revise the National Emission Standards for Hazardous Air Pollutants (NESHAP) General Provisions for consistency with the proposed audit restructuring program. The commenter pointed out that provisions in 63.7(4)(i) state that "audit materials may be obtained by contacting the appropriate EPA Regional Office or responsible enforcement authority," and this language conflicts with the proposed rule.

Response: We agree and the final rule has been revised to correct the inconsistency.

U. Ordering Audit Samples

Comment: Two commenters stated that it is not clear who is responsible for obtaining the audit samples because the proposed rule allows the source or an agent for the source to request the audit sample for a source test. The commenters requested that EPA clarify the type of documentation that would be needed by the agent to demonstrate to the AASP that it is indeed an agent for the source.

Response: This provision was intended to allow the source owner or someone designated by the owner such as a member of a source testing firm to request the audit sample. The agent would need to work with the AASP to provide any documentation necessary to satisfy the AASP that they were an agent acting for the source.

Comment: One commenter believes there should be a time-frame for the source to order audit samples and the compliance authority should be notified when an audit sample was ordered.

Response: The final rule has been revised to provide the compliance authority input into the audit sample concentration range which in itself provides the compliance authority notification of an audit sample order. We believe the time frame for ordering audit samples is an issue that should be considered by the source owner, compliance authority and the AASP. It is not an issue that is covered by this rule.

V. EPA Maintained List of Audit Providers

Comment: One commenter is concerned that if source owners seek the lowest cost AASPs, then there could be audit sample shortages, unforeseeable variations in costs, audit quality issues, and last minute failures in AASPs supplying audit samples. The commenter also asked that EPA flag or remove any AASP that fails to deliver audit material as offered or promised.

Response: We intend to monitor the progress of this new system of supplying audit samples to ensure that it works as anticipated. We anticipate that most AASPs will deliver on their contracts, as most businesses want repeat customers.

W. 2003 Study on Quality Gas Cylinder Samples

Comment: One commenter believes reliance on voluntary consensus requirements for accreditation of audit samples does little to improve the reliability of compliance testing, and may threaten the quality of the testing itself without additional procedures for qualifying and auditing private entities. The commenter believes this makes the EPA proposal arbitrary and unreasonable. As proof of this contention, the commenter points to a 2003 study where EPA performed an audit of 42 source-level, tri-blend, EPA Protocol calibration gas cylinders from a total of 14 major gas vendors nationwide. The commenter points out that the overall failure rate from this study was 11 percent on a gas component basis, and 57 percent on a vendor basis, and that no additional evidence of the availability or the quality or calibration of private vendor audit samples has been offered to refute EPA's own study.

Response: This study is not relevant to the restructuring of the audit program. The gas vendors surveyed in this study were not accredited to produce EPA Protocol calibration gases because the protocol gas program does not require accreditation and were not subject to any third party verification. The restructured audit program requires that providers be accredited and provide recurring third party verification of the quality of the audit samples being produced.

X. Proposal Is Premature

Comment: One commenter expressed concern that there were no existing third party accrediting bodies for audit sample providers and, therefore, there are no AASPs from which to obtain audit samples under this proposed rule. This commenter contends that it is not sufficient for EPA to simply propose a framework and then to develop the details of the program after the opportunity for notice and comment has passed.

Response: As stated previously, an audit sample is required with compliance testing only when a sample is available, except where exempted in the regulations. EPA is permitted to develop regulatory criteria for approval of criteria documents from audit sample providers and did this in the proposed rule which provided an opportunity for notice and comment. These are not "details of the program" to be determined at a later date. If an audit sample provider's criteria document meets the regulatory criteria, it will be approved and the sample provider may provide samples for sources conducting compliance tests.

Y. Voluntary Consensus Standards Body (VCSB) Standard Does Not Meet EPA's Needs

Comment: One commenter believes the entire proposal is short on detail and hopes this will be addressed through EPA's approval of accrediting bodies, where EPA would specify additional details. The commenter also expressed concern the VCSB may be able to agree to standards, but those standards might not serve the needs of EPA or other compliance authorities.

Response: We believe that any program that meets the minimum criteria specified in the final rule will meet the needs of the EPA and other

compliance agencies. The criteria in the final rule ensure that any program that is developed by the private sector and approved by EPA will be equivalent to EPA's current audit program.

Z. Gas Audit Samples Entry Point

Comment: One commenter recommended changing Section 60.8(g) to read as follows: "For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source." The commenter points out that in source gas sampling, calibration gases as well as audit gases are introduced in the probe such that they pass through most of the probe tube and all filters and other components of the sampling system, but it is not always practical to introduce the calibration gas at the same entry point as the source gas.

Response: We agree that it may not always be practical to introduce the calibration gas at the same entry point as the source gas. EPA has revised the rule to allow introduction of the audit sample "at or near" the entry point for the sample from the emission source.

V. Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 12, 2010. Under section 307(d)(7)(B) of the CAA, only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this action may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the E.O.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

A regulated emission source conducting a compliance test would purchase an audit sample from an AASP. The AASP would report the true value of the audit sample to the compliance authority (State, local or EPA Regional Office). This is a new reporting requirement. The AASP would in most cases make the report by electronic mail. A report would be made for each audit sample that the AASP sold to a regulated emission source that was conducting an emissions test to determine compliance with an emission limit.

Based on historic data, EPA estimates that there will be about 1,000 audit samples sold each year generating the need for about 1,000 reports which corresponds to 80 hours burden or 0.08 hour per response for reporting and recordkeeping. The estimated cost burden is $5.05 per response or an annual burden of $5,050. 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; 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.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule are small businesses. We have determined that annually as many as 70 or 0.001 percent of small businesses will experience an impact of 0.013 to 0.2 percent of revenues.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. The incremental costs associated with purchasing the audit samples (expected to be less than $1,000 per test) do not impose a significant burden on sources. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. In fact, this rule removes the responsibility of acquiring the audit samples to the regulated facility from the government agency.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action adds language to the general provisions to

allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action adds language to the general provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the E.O. has the potential to influence the regulation. This action is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potential applicable voluntary consensus standards. However, we identified no such standards, and none were brought to our attention in comments. Therefore, EPA has decided to establish minimum requirements for the audit samples, the accredited audit sample providers and the audit sample provider accreditor.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (E.O.) 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The amendments would add language to the general provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice.

K. Congressional Review Act

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** 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). This rule will be effective October 13, 2010.

Restructuring of the Stationary Source Audit Program

List of Subjects

40 CFR Part 51

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur compounds, Volatile organic compounds.

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitors.

40 CFR Part 61

Environmental protection, Air pollution control.

40 CFR Part 63

Environmental protection, Administrative practice and Procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 26, 2010.

Lisa P. Jackson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 2. Amend Appendix M to part 51 as follows:

■ a. Designate the three introductory paragraphs as Sections 1.0 through 3.0.

■ b. Add new Section 4.0.

■ c. In Method 204A by removing Sections 7.2, 7.2.1, 7.2.2, and 7.2.3.

■ d. In Method 204B by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

■ e. In Method 204C by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

■ f. In Method 204D by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

■ g. In Method 204E by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

■ h. In Method 204F by removing Sections 6.3, 6.3.1, 6.3.2, 6.3.3.

Appendix M to Part 51—Recommended Test Methods for State Implementation Plans

* * * * *

4.0 *Quality Assurance Procedures.* The performance testing shall include a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. Gaseous audit samples are designed to audit the performance of the sampling system as well as the analytical system and must be collected by the sampling system during the compliance test just as the compliance samples are collected. If a liquid or solid audit sample is designed to audit the sampling system, it must also be collected by the sampling system during the compliance test. If multiple sampling systems or sampling trains are used during the compliance test for any of the test methods, the tester is only required to use one of the sampling systems per method to collect the audit sample. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system and at the same time as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. Acceptance of the test results shall constitute a waiver of the reanalysis requirement, further audits, or retests. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after it reports the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that will be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

a. The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes. No audit samples are required for the following test methods: Methods 3C of Appendix A–3 of Part 60, Methods, 6C, 7E, 9, and 10 of Appendix A–4 of Part 60, Method 18 of Appendix A–6 of Part 60, Methods 20, 22, and 25A of Appendix A–7 of Part 60, and Methods 303, 318, 320, and 321 of Appendix A of Part 63. If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test. The compliance authority responsible for the compliance test may waive the requirement to include an audit sample if they believe that an audit sample is not necessary. "Commercially available" means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc,* to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source owner, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and report to the AASP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The tester may request and the compliance authority may grant a waiver to the requirement that a representative of the compliance authority must be present at the testing site during the field analysis of an audit sample. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and then report the results of the audit sample to the AASP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

b. An AASP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples will be prepared and distributed in a manner that will ensure the integrity of the audit sample program. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

1. Preparing the sample;

2. Confirming the true concentration of the sample;

3. Defining the acceptance limits for the results from a well qualified tester. This procedure must use well established statistical methods to analyze historical results from well qualified testers. The acceptance limits shall be set so that there is 95 percent confidence that 90 percent of well qualified labs will produce future results that are within the acceptance limit range;

4. Providing the opportunity for the compliance authority to comment on the selected concentration level for an audit sample;

5. Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

6. Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

7. Report the results from each audit sample in a timely manner to the compliance authority and to the source owner, operator, or representative by the AASP. The AASP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, and whether the testing company passed or failed the audit. The AASP shall report the true value of the audit sample to the compliance authority. The AASP may report the true value to the source owner, operator, or representative if the AASP's operating plan ensures that no laboratory will receive the same audit sample twice.

8. Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed;

9. Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

c. The accrediting body shall have a written technical criteria document that describes how it will ensure that the AASP is operating in accordance with the AASP

technical criteria document that describes how audit samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

1. Checking audit samples to confirm their true value as reported by the AASP;

2. Performing technical systems audits of the AASP's facilities and operating procedures at least once every 2 years.

3. Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

d. The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A–119.* A copy of *Circular A–119* is available upon request by writing the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, by calling (202) 395–6880 or by downloading online at *http://standards.gov/standards_gov/a119.cfm.* The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in this Appendix M, paragraphs b. through d., the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents shall be posted on the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc.*

* * * * *

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 3. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7410, 7414, 7421, 7470–7479, 7491, 7492, 7601 and 7602.

■ 4. Section 60.8 is amended by adding paragraph (g) to read as follows:

§ 60.8 Performance tests.

* * * * *

(g) The performance testing shall include a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. Gaseous audit samples are designed to audit the performance of the sampling system as well as the analytical system and must be collected by the sampling system during the compliance test just as the compliance samples are collected. If a liquid or solid audit sample is designed to audit the sampling system, it must also be collected by the sampling system during the compliance test. If multiple sampling systems or sampling trains are used during the compliance test for any of the test methods, the tester is only required to use one of the sampling systems per method to collect the audit sample. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system and at the same time as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. Acceptance of the test results shall constitute a waiver of the reanalysis requirement, further audits, or retests. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

(1) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes. No audit samples are required for the following test methods: Methods 3C of Appendix A–3 of Part 60, Methods 6C, 7E, 9, and 10 of Appendix A–4 of Part 60, Method 18 of Appendix A–6 of Part 60, Methods 20, 22, and 25A of Appendix A–7 of Part 60, and Methods 303, 318, 320, and 321 of Appendix A of Part 63. If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test. The compliance authority responsible for the compliance test may waive the requirement to include an audit sample if they believe that an audit sample is not necessary. "Commercially available" means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc,* to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the AASP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The tester may request and the compliance authority may grant a waiver to the requirement that a representative of the compliance

authority must be present at the testing site during the field analysis of an audit sample. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and report the results of the audit sample to the AASP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(2) An AASP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples will be prepared and distributed in a manner that will ensure the integrity of the audit sample program. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

(i) Preparing the sample;

(ii) Confirming the true concentration of the sample;

(iii) Defining the acceptance limits for the results from a well qualified tester. This procedure must use well established statistical methods to analyze historical results from well qualified testers. The acceptance limits shall be set so that there is 95 percent confidence that 90 percent of well qualified labs will produce future results that are within the acceptance limit range.

(iv) Providing the opportunity for the compliance authority to comment on the selected concentration level for an audit sample;

(v) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

(vi) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(vii) The AASP shall report the results from each audit sample in a timely manner to the compliance authority and then to the source owner, operator, or representative. The AASP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, and whether the testing company passed or failed the audit. The AASP shall report the true value of the audit sample to the compliance authority. The AASP may report the true value to the source owner, operator, or representative if the AASP's operating plan ensures that no laboratory will receive the same audit sample twice.

(viii) Evaluating the acceptance limits of samples at least once every two years to determine in cooperation with the voluntary consensus standard body if they should be changed;

(ix) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(3) The accrediting body shall have a written technical criteria document that describes how it will ensure that the AASP is operating in accordance with the AASP technical criteria document that describes how audit samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

(i) Checking audit samples to confirm their true value as reported by the AASP;

(ii) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years;

(iii) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(4) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget Circular A–119. A copy of Circular A–119 is available upon request by writing the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, by calling (202) 395–6880 or downloading online at *http://standards.gov/standards_gov/a119.cfm.* The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in paragraphs (g)(2) through (4)of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents shall be posted on the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc.*

■ 5. In Appendix A–3 to part 60 amend Method 5I by revising Section 7.2 to read as follows:

Appendix A–3 to Part 60—Test Methods 4 through 5I

* * * * *

Method 5I—Determination of Low Level Particulate Matter Emissions From Stationary Sources

* * * * *

7.2 Standards. There are no applicable standards commercially available for Method 5I analyses.

* * * * *

■ 6. Amend Appendix A–4 to part 60 as follows:

■ a. In Method 6 as follows:

■ i. Remove Section 7.3.6., including the note that follows.

■ ii. Revise Section 9.0.

■ iii. Remove Sections 11.3, 11.3.1 through 11.3.3, 11.4, 11.4.1 through 11.4.4, and 12.4.

■ iv. Revise Section 12.1.

■ b. In Method 6A as follows:

■ i. Remove Section 11.2.

■ ii. Revise Section 16.5.

■ c. In Method 6B by removing Section 11.2.

■ d. In Method 6C by revising Section 16.1.

■ e. In Method 7 as follows:

■ i. Remove Section 7.3.10., including the note that follows.

■ ii. Revise Section 9.

■ iii. Remove Sections 11.4, 11.4.1 through 11.4.3, 11.5, 11.5.1 through 11.5.4, and 12.6.

■ iv. Revise Section 12.1.

■ f. In Method 7A as follows:

■ i. Revise Section 6.3.

■ ii. Remove Section 7.3.5.

■ iii. Revise Section 9.0.

■ iv. Remove Section 11.3.

■ g. In Method 7B as follows:

■ i. Revise Section 9.0.

■ ii. Remove Section 11.4.

■ h. In Method 7C as follows:

■ i. Remove Section 7.2.15.

■ ii. Revise Section 9.0.

■ iii. Remove Section 11.6.

■ i. In Method 7D as follows:

■ i. Remove Sections 7.2.6 and 11.3.

■ ii. Revise Section 9.0.

■ j. In Method 8 as follows:

■ i. Remove Section 7.3.1., including the note that follows.
■ ii. Revise Section 9.1.
■ iii. Remove Sections 11.3, 11.3.1, 11.3.2, 11.3.3, 11.4, 11.4.1, 11.4.2, 11.4.3, 11.4.4, and 12.9.
■ iiv. Revise Section 12.1.

Appendix A–4 to Part 60—Test Methods 6 Through 10B

* * * * *

Method 6—Determination of Sulfur Dioxide Emissions From Stationary Sources

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
7.1.2	Isopropanol check	Ensure acceptable level of peroxide impurities in isopropanol.
8.2, 10.1–10.4	Sampling equipment leak-check and calibration	Ensure accurate measurement of stack gas flow rate, sample volume.
10.5	Barium standard solution standardization	Ensure precision of normality determination
11.2.3	Replicate titrations	Ensure precision of titration determinations.

* * * * *

12.1 Nomenclature

C_{SO2} = Concentration of SO_2, dry basis, corrected to standard conditions, mg/dscm (lb/dscf).
N = Normality of barium standard titrant, meq/ml.
P_{bar} = Barometric pressure, mm Hg (in. Hg).
P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
T_m = Average DGM absolute temperature, °K (°R).
T_{std} = Standard absolute temperature, 293 °K (528 °R).
V_a = Volume of sample aliquot titrated, ml.
V_m = Dry gas volume as measured by the DGM, dcm (dcf).
$V_{m(std)}$ = Dry gas volume measured by the DGM, corrected to standard conditions, dscm (dscf).
V_{soln} = Total volume of solution in which the SO_2 sample is contained, 100 ml.
V_t = Volume of barium standard titrant used for the sample (average of replicate titration), ml.
V_{tb} = Volume of barium standard titrant used for the blank, ml.
Y = DGM calibration factor.

* * * * *

Method 6A—Determination of Sulfur Dioxide, Moisture and Carbon Dioxide Emissions From Fossil Fuel Combustion Sources

* * * * *

16.5 Sample Analysis. Analysis of the peroxide solution is the same as that described in Section 11.1.

* * * * *

Method 6C—Determination of Sulfur Dioxide Emissions From Stationary Sources (Instrumental Analyzer Procedure)

* * * * *

16.1 Alternative Interference Check. You may perform an alternative interference check consisting of at least three comparison runs between Method 6C and Method 6. This check validates the Method 6C results at each particular source category (type of facility) where the check is performed. When testing under conditions of low concentrations (<15 ppm), this alternative interference check is not allowed.

Note: The procedure described below applies to non-dilution sampling systems only. If this alternative interference check is used for a dilution sampling system, use a standard Method 6 sampling train and extract the sample directly from the exhaust stream at points collocated with the Method 6C sample probe.

a. Build the modified Method 6 sampling train (flow control valve, two midget impingers containing 3 percent hydrogen peroxide, and dry gas meter) shown in Figure 6C–1. Connect the sampling train to the sample bypass discharge vent. Record the dry gas meter reading before you begin sampling. Simultaneously collect modified Method 6 and Method 6C samples. Open the flow control valve in the modified Method 6 train as you begin to sample with Method 6C. Adjust the Method 6 sampling rate to 1 liter per minute (.10 percent). The sampling time per run must be the same as for Method 6 plus twice the average measurement system response time. If your modified Method 6 train does not include a pump, you risk biasing the results high if you over-pressurize the midget impingers and cause a leak. You can reduce this risk by cautiously increasing the flow rate as sampling begins.

b. After completing a run, record the final dry gas meter reading, meter temperature, and barometric pressure. Recover and analyze the contents of the midget impingers using the procedures in Method 6. Determine the average gas concentration reported by Method 6C for the run.

* * * * *

Method 7—Determination of Nitrogen Oxide Emissions From Stationary Sources

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.1	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.

* * * * *

12.1 Nomenclature

A = Absorbance of sample.
A_1 = Absorbance of the 100-µg NO_2 standard.
A_2 = Absorbance of the 200-µg NO_2 standard.
A_3 = Absorbance of the 300-µg NO_2 standard.
A_4 = Absorbance of the 400-µg NO_2 standard.
C = Concentration of NO_X as NO_2, dry basis, corrected to standard conditions, mg/dsm³ (lb/dscf).
F = Dilution factor (*i.e.,* 25/5, 25/10, *etc.,* required only if sample dilution was needed to reduce the absorbance into the range of the calibration).
K_c = Spectrophotometer calibration factor.
M = Mass of NO_X as NO_2 in gas sample, µg.
P_f = Final absolute pressure of flask, mm Hg (in. Hg).
P_i = Initial absolute pressure of flask, mm Hg (in. Hg).
P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
T_f = Final absolute temperature of flask, °K (°R).
T_i = Initial absolute temperature of flask, °K (°R).
T_{std} = Standard absolute temperature, 293 °K (528°R).
V_{sc} = Sample volume at standard conditions (dry basis), ml.
V_f = Volume of flask and valve, ml.
V_a = Volume of absorbing solution, 25 ml.

* * * * *

Method 7A—Determination of Nitrogen Oxide Emissions From Stationary Sources (Ion Chromatographic Method)

* * * * *

6.3 Analysis. For the analysis, the following equipment and supplies are required. Alternative instrumentation and procedures will be allowed provided the calibration precision requirement in Section 10.1.2 can be met.

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.1	Ion chromatographn calibration	Ensure linearity of ion chromatograph response to standards.

* * * * *

Method 7B—Determination of Nitrogen Oxide Emissions From Stationary Sources (Ultraviolet Spectrophotometric Method)

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.1	Spectrophotometer calibration	Ensures linearity of spectrophotometer response to standards.

* * * * *

Method 7C—Determination of Nitrogen Oxide Emissions From Stationary Sources (Alkaline Permanganate/Colorimetric Method)

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
8.2, 10.1–10.3	Sampling equipment leak-check and calibration	Ensure accurate measurement of sample volume.
10.4	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards
11.3	Spiked sample analysis.	Ensure reduction efficiency of column.

* * * * *

Method 7D—Determination of Nitrogen Oxide Emissions From Stationary Sources—Alkaline-Permanganate/Ion Chromatographic Method

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
8.2, 10.1–10.3	Sampling equipment leak-check and calibration	Ensure accurate measurement of sample volume.
10.4	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.3	Spiked sample analysis	Ensure reduction efficiency of column.

* * * * *

Method 8—Determination of Sulfuric Acid and Sulfur Dioxide Emissions From Stationary Sources

* * * * *

9.1 Miscellaneous Quality Control Measures

Section	Quality control measure	Effect
7.1.3	Isopropanol check	Ensure acceptable level of peroxide impurities in isopropanol.
8.4, 8.5, 10.1	Sampling equipment leak-check and calibration	Ensure accurate measurement of stack gas flow rate, sample volume.
10.2	Barium standard solution standardization	Ensure normality determination.
11.2	Replicate titrations	Ensure precision of titration determinations.

* * * * *

12.1 Nomenclature. Same as Method 5, Section 12.1, with the following additions and exceptions:

$C_{H_2SO_4}$ = Sulfuric acid (including SO_3) concentration, g/dscm (lb/dscf).

C_{SO_2} = Sulfur dioxide concentration, g/dscm (lb/dscf).

N = Normality of barium perchlorate titrant, meq/ml.

V_a = Volume of sample aliquot titrated, 100 ml for H_2SO_4 and 10 ml for SO_2.

V_{soln} = Total volume of solution in which the sample is contained, 250 ml for the SO_2 sample and 1000 ml for the H_2SO_4 sample.
V_t = Volume of barium standard solution titrant used for the sample, ml.
V_{tb} = Volume of barium standard solution titrant used for the blank, ml.

* * * * *

■ 7. In Appendix A–5 to part 60 amend Method 15A as follows:

■ a. Revise Section 9.0.

■ b. Remove Section 11.2.

Appendix A–5 to Part 60—Test Methods 11 Through 15A

* * * * *

Method 15A—Determination of Total Reduced Sulfur Emissions From Sulfur Recovery Plants in Petroleum Refineries

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
8.5	System performance check	Ensures validity of sampling train components and analytical procedure.
8.2, 10.0	Sampling equipment leak-check and calibration	Ensures accurate measurement of stack gas flow rate, sample volume.
10.0	Barium standard solution standardization	Ensures precision of normality determination.
11.1	Replicate titrations	Ensures precision of titration determinations.

* * * * *

■ 8. Amend Appendix A–6 to part 60 as follows:

■ a. Revise Method 16A as follows:

■ i. Revise Section 9.0.

■ ii. Remove Section 11.2.

■ b. Revise Method 18 as follows:

■ i. Remove Sections 7.2, including the note that follows, 8.2.1.5.2.2, and 8.2.1.7.

■ ii. Revise Section 8.2.2.2.

■ iii. Remove Sections 8.2.2.4, and 8.2.3.2.3.

■ iv. Revise Section 8.2.4.2.2.

■ v. Remove Sections 9.2 and 13.1(b).

■ vi. Revise "Gaseous Organic Sampling and Analysis Checklist" at the end of the appendix.

Appendix A–6 to Part 60—Test Methods 16 Through 18

* * * * *

Method 16A—Determination of Total Reduced Sulfur Emissions From Stationary Sources (Impinger Technique)

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
8.5	System performance check	Ensure validity of sampling train components and analytical procedure.
8.2, 10.0	Sampling equipment leak-check and calibration	Ensure accurate measurement of stack gas flow rate, sample volume.
10.0	Barium standard solution standardization	Ensure precision of normality determination.
11.1	Replicate titrations	Ensure precision of titration determinations.

* * * * *

Method 18—Measurement of Gaseous Organic Compound Emissions by Gas Chromatography

* * * * *

8.2.2.2 Procedure. Calibrate the GC using the procedures in Section 8.2.1.5.2.1. To obtain a stack gas sample, assemble the sampling system as shown in Figure 18–12. Make sure all connections are tight. Turn on the probe and sample line heaters. As the temperature of the probe and heated line approaches the target temperature as indicated on the thermocouple readout device, control the heating to maintain a temperature greater than 110 °C. Conduct a 3-point calibration of the GC by analyzing each gas mixture in triplicate. Generate a calibration curve. Place the inlet of the probe at the centroid of the duct, or at a point no closer to the walls than 1 m, and draw source gas into the probe, heated line, and sample loop. After thorough flushing, analyze the stack gas sample using the same conditions as for the calibration gas mixture. For each run, sample, analyze, and record five consecutive samples. A test consists of three runs (five samples per run times three runs, for a total of fifteen samples). After all samples have been analyzed, repeat the analysis of the mid-level calibration gas for each compound. For each calibration standard, compare the pre- and post-test average response factors (RF) for each compound. If the two calibration RF values (pre- and post-analysis) differ by more than 5 percent from their mean value, then analyze the other calibration gas levels for that compound and determine the stack gas sample concentrations by comparison to both calibration curves (this is done by preparing a calibration curve using all the pre- and post-test calibration gas mixture values.) If the two calibration RF values differ by less than 5 percent from their mean value, the tester has the option of using only the pre-test calibration curve to generate the concentration values. Record this calibration data and the other required data on the data sheet shown in Figure 18–11, deleting the dilution gas information.

Note: Take care to draw all samples and calibration mixtures through the sample loop at the same pressure.

* * * * *

8.2.4.2.2 Use a sample probe, if required, to obtain the sample at the centroid of the duct or at a point no closer to the walls than 1 m. Minimize the length of flexible tubing between the probe and adsorption tubes. Several adsorption tubes can be connected in series, if the extra adsorptive capacity is needed. Adsorption tubes should be maintained vertically during the test in order to prevent channeling. Provide the gas sample to the sample system at a pressure sufficient for the limiting orifice to function as a sonic orifice. Record the total time and sample flow rate (or the number of pump strokes), the barometric pressure, and ambient temperature. Obtain a total sample volume commensurate with the expected concentration(s) of the volatile organic(s) present and recommended sample loading factors (weight sample per weight adsorption media). Laboratory tests prior to actual sampling may be necessary to predetermine this volume. If water vapor is present in the sample at concentrations above 2 to 3 percent, the adsorptive capacity may be severely reduced. Operate the gas chromatograph according to the manufacturer's instructions. After establishing optimum conditions, verify and document these conditions during all operations. Calibrate the instrument and then analyze the emission samples.

* * * * *

GASEOUS ORGANIC SAMPLING AND ANALYSIS CHECK LIST (RESPOND WITH INITIALS OR NUMBER AS APPROPRIATE)

	Date
1. Pre-survey data	
A. Grab sample collected	☐ _____
B. Grab sample analyzed for composition	☐ _____
Method GC	☐ _____
GC/MS	☐ _____
Other_____	☐ _____
C. GC–FID analysis performed	☐ _____
2. Laboratory calibration curves prepared	☐ _____
A. Number of components	☐ _____
B. Number of concentrations per component (3 required)	☐ _____
C. OK obtained for field work	☐ _____
3. Sampling procedures.	
A. Method.	
Bag sample	☐ _____
Direct interface	☐ _____
Dilution interface	☐ _____
B. Number of samples collected	☐ _____
4. Field Analysis.	
A. Total hydrocarbon analysis performed	☐ _____
B. Calibration curve prepared	☐ _____
Number of components	☐ _____
Number of concentrations per component (3 required)	☐ _____

* * * * *

■ 9. Amend Appendix A–7 to part 60 as follows:

■ a. Revise Method 23 by removing Sections 8., 8.1., 8.2, 8.3, and 8.4.

■ b. Revise Method 25 as follows:

■ i. Remove Sections 7.5, 7.5.1, and 7.5.2., including the note that follows.

■ ii. Revise Section 9.0.

■ iii. Remove Sections 11.3, 11.3.1, 11.3.2, 11.3.3, 11.4, 11.4.1, 11.4.2, 11.4.3, and 11.4.4.

■ c. Revise Method 25C as follows:

■ i. Remove Sections 7.3, 7.3.1, and 7.3.2.

■ ii. Revise Section 9.1.

■ iii. Remove Sections 11.2, 11.2.1, 11.2.2, 11.3, 11.3.1, 11.3.2, 11.3.3, and 11.3.4.

■ d. Revise Method 25D by removing Sections 7.3, 7.3.1, 7.3.2, including the note that follows, 11.3, 11.3.1, 11.3.2, 11.3.3, 11.4, 11.4.1, 11.4.2.

Appendix A–7 to Part 60—Test Methods 19 Through 25E

* * * * *

Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.1.1	Initial performance check of condensate recovery apparatus.	Ensure acceptable condensate recovery efficiency.
10.1.2, 10.2	NMO analyzer initial and daily performance checks	Ensure precision of analytical results.

* * * * *

Method 25C—Determination of Nonmethane Organic Compounds (NMOC) in Landfill Gases

* * * * *

9.1 Miscellaneous Quality Control Measures

Section	Quality control measure	Effect
8.4.1	Verify that landfill gas sample contains less than 20 percent N_2 or 5 percent O_2.	Ensures that ambient air was not drawn into the landfill gas sample.
10.1, 10.2	NMOC analyzer initial and daily performance checks	Ensures precision of analytical results.

* * * * *

■ 10. Amend Appendix A–8 to part 60 as follows:

■ a. Revise Method 26 as follows:

■ i. Remove Section 7.3., including the note that follows.

■ ii. Revise Section 9.0.

■ iii. Remove Sections 11.2, 11.2.1, 11.2.2, 11.2.3, 11.3, 11.3.1, 11.3.2, 11.3.3, and 11.3.4.

■ b. Revise Method 26A as follows:

■ i. Remove Section 7.3., including the note that follows.

■ ii. Revise the first Section 9.1.

■ iii. Redesignate the second Section 9.1 as 9.2.

■ iv. Remove Sections 11.4, 11.4.1, 11.4.2, 11.4.3, 11.5, 11.5.1, 11.5.2, 11.5.3, and 11.5.4.

Appendix A–8 to Part 60—Test Methods 26 through 29

* * * * *

Method 26—Determination of Hydrogen Halide and Halogen Emissions From Stationary Sources Non-Isokinetic Method

* * * * *

9.0 Quality Control [Reserved]

* * * * *

Method 26A—Determination of Hydrogen Halide and Halogen Emissions From Stationary Sources Isokinetic Method

* * * * *

9.1 Miscellaneous Quality Control Measures

Section	Quality control measure	Effect
8.1.4, 10.1	Sampling equipment leak-check and calibration	Ensure accurate measurement of stack gas flow rate, sample volume.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

■ 11. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7413, 7414, 7416, 7601, and 7602.

■ 12. Section 61.13 is amended by adding paragraph (e)(1) and adding and reserving paragraph (e)(2) to read as follows:

§ 61.13 Emission tests and waiver of emission tests.

* * * * *

(e) * * *

(1) The performance testing shall include a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. Gaseous audit samples are designed to audit the performance of the sampling system as well as the analytical system and must be collected by the sampling system during the compliance test just as the compliance samples are collected. If a liquid or solid audit sample is designed to audit the sampling system, it must also be collected by the sampling system during the compliance test. If multiple sampling systems or sampling trains are used during the compliance test for any of the test methods, the tester is only required to use one of the sampling systems per method to collect the audit sample. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system and at the same time as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. Acceptance of the test results shall constitute a waiver of the reanalysis requirement, further audits, or retests. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

(i) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes. No audit samples are required for the following test methods: Methods 3C of Appendix A–3 of Part 60, Methods 6C, 7E, 9, and 10 of Appendix A–4 of Part 60, Method 18 of Appendix A–6 of Part 60, Methods 20, 22, and 25A of Appendix A–7 of Part 60, and Methods 303, 318, 320, and 321 of Appendix A of Part 63. If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test. The compliance authority responsible for the compliance test may waive the requirement to include an audit sample if they believe that an audit sample is not necessary. "Commercially available" means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, *www.epa.gov/ttn/emc,* to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source owner, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and report to the AASP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The tester may request and the compliance authority may grant a waiver to the requirement that a representative of the compliance authority must be present at the testing site during the field analysis of an audit sample. The source owner, operator, or representative may report the results of the audit sample to the compliance

authority and then report the results of the audit sample to the AASP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(ii) An AASP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples will be prepared and distributed in a manner that will ensure the integrity of the audit sample program. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

(A) Preparing the sample;

(B) Confirming the true concentration of the sample;

(C) Defining the acceptance limits for the results from a well qualified tester. This procedure must use well established statistical methods to analyze historical results from well qualified testers. The acceptance limits shall be set so that there is 95 percent confidence that 90 percent of well qualified labs will produce future results that are within the acceptance limit range;

(D) Providing the opportunity for the compliance authority to comment on the selected concentration level for an audit sample;

(E) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

(F) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(G) Reporting the results from each audit sample in a timely manner to the compliance authority and to the source owner, operator, or representative by the AASP. The AASP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, and whether the testing company passed or failed the audit. The AASP shall report the true value of the audit sample to the compliance authority. The AASP may report the true value to the source owner, operator, or representative if the AASP's operating plan ensures that no laboratory will receive the same audit sample twice.

(H) Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed;

(I) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(iii) The accrediting body shall have a written technical criteria document that describes how it will ensure that the AASP is operating in accordance with the AASP technical criteria document that describes how audit or samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

(A) Checking audit samples to confirm their true value as reported by the AASP.

(B) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years.

(C) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(iv) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A–119.* A copy of Circular A–119 is available upon request by writing the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, by calling (202) 395–6880 or downloading online at *http://standards.gov/standards_gov/a119.cfm.* The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in paragraphs (e)(1)(ii) through (iv) of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents shall be posted on the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc.*

(2) [Reserved]

* * * * *

Appendix B—[Amended]

■ 13. Amend Appendix B to part 61 as follows:

■ a. In Method 104 revise Section 9.

■ b. In Method 106 as follows:

■ i. Remove Sections 7.2.4, 7.2.4.1, including the note that follows, and 7.2.4.2.

■ ii. Revise Section 9.0.

■ iii. Remove Sections 9.1, 9.2, and 11.1.

■ c. In Method 108 as follows:

■ i. Remove Section 7.3.16., including the note that follows.

■ ii. Revise Section 9.1.

■ iii. Remove Sections 11.6, 11.6.1, 11.6.2, including the note that follows, 11.6.3, 11.7, 11.7.1, 11.7.2, 11.7.3, and 11.7.4.

■ iv. Revise Section 12.1.

d. In Method 108A as follows:

■ i. Remove Section 7.2.1.

■ ii. Revise Section 9.0.

■ iii. Remove Sections 11.6, 11.6.1, 11.6.2, including the note that follows, 11.6.3, 11.7, 11.7.1, 11.7.2, 11.7.3, and 11.7.4.

e. In Method 108B as follows:

■ i. Remove Section 7.2.5.

■ ii. Revise Section 9.0.

■ iii. Remove Section 11.5.

f. In Method 108C as follows:

■ i. Remove Sections 7.2.10.

■ ii. Revise Section 9.0.

■ iii. Remove Section 11.3.

g. In Method 111 as follows:

■ i. Revise Section 9.2.

■ ii. Revise Section 11.0.

■ iii. Remove Section 11.3.

Appendix B to Part 61—Test Methods

* * * * *

Method 104—Determination of Beryllium Emissions From Stationary Sources

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
8.4, 10.1	Sampling equipment leak checks and calibration	Ensure accuracy and precision of sampling measurements.
10.2	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.5	Check for matrix effects	Eliminate matrix effects.

* * * * *

Method 106—Determination of Vinyl Chloride Emissions From Stationary Sources

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.3	Chromatograph calibration	Ensure precision and accuracy of chromatograph.

* * * * *

Method 108—Determination of Particulate and Gaseous Arsenic Emissions

* * * * *

9.0 Quality Control

9.1 Miscellaneous Quality Control Measures.

Section	Quality control measure	Effect
8.4, 10.1	Sampling equipment leak-checks and calibration	Ensures accuracy and precision of sampling measurements.
10.4	Spectrophotometer calibration	Ensures linearity of spectrophotometer response to standards.
11.5	Check for matrix effects	Eliminates matrix effects.

* * * * *

12.1 Nomenclature

B_{ws} = Water in the gas stream, proportion by volume.

C_a = Concentration of arsenic as read from the standard curve, µg/ml.

C_s = Arsenic concentration in stack gas, dry basis, converted to standard conditions, g/dsm³ (gr/dscf).

E_a = Arsenic mass emission rate, g/hr (lb/hr).

F_d = Dilution factor (equals 1 if the sample has not been diluted).

I = Percent of isokinetic sampling.

m_{bi} = Total mass of all four impingers and contents before sampling, g.

m_{fi} = Total mass of all four impingers and contents after sampling, g.

m_n = Total mass of arsenic collected in a specific part of the sampling train, µg.

m_t = Total mass of arsenic collected in the sampling train, µg.

T_m = Absolute average dry gas meter temperature (*see* Figure 108–2), °K (°R).

V_m = Volume of gas sample as measured by the dry gas meter, dry basis, m³ (ft³).

$V_{m(std)}$ = Volume of gas sample as measured by the dry gas meter, corrected to standard conditions, m³ (ft³).

V_n = Volume of solution in which the arsenic is contained, ml.

$V_{w(std)}$ = Volume of water vapor collected in the sampling train, corrected to standard conditions, m³ (ft³).

ΔH = Average pressure differential across the orifice meter (*see* Figure 108–2), mm H_2O (in. H_2O).

* * * * *

Method 108A—Determination of Arsenic Content in Ore Samples From Nonferrous Smelters

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.2	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.5	Check for matrix effects	Eliminate matrix effects.

* * * * *

Method 108B—Determination of Arsenic Content in Ore Samples From Nonferrous Smelters

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.2	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.4	Check for matrix effects	Eliminate matrix effects.

* * * * *

Method 108C—Determination of Arsenic Content in Ore Samples From Nonferrous Smelters (Molybdenum Blue Photometric Procedure)

* * * * *

9.0 Quality Control

Section	Quality control measure	Effect
10.2	Calibration curve preparation	Ensure linearity of spectrophotometric response to standards.

* * * * *

Method 111—Determination of Polonium—210 Emissions From Stationary Sources

* * * * *

9.2 Miscellaneous Quality Control Measures

Section	Quality control measure	Effect
10.1	Standardization of alpha spectrometry system	Ensure precision of sample analyses.
10.3	Standardization of internal proportional counter	Ensure precise sizing of sample aliquot.
11.1, 11.2	Determination of procedure background and instrument background.	Minimize background effects.

* * * * *

11.0 Analytical Procedure

Note: Perform duplicate analyses of all samples, including background counts and Method 5 samples. Duplicate measurements are considered acceptable when the difference between them is less than two standard deviations as described in EPA 600/4–77–001 or subsequent revisions.

* * * * *

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 14. The authority citation for part 63 continues to read as follows:

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

■ 15. Section 63.7 is amended by revising (c)(2)(iii) and removing paragraph (c)(4).

The revision reads as follows:

§ 63.7 Performance testing requirements.

* * * * *

(c) * * *

(2) * * *

(iii) The performance testing shall include a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. Gaseous audit samples are designed to audit the performance of the sampling system as well as the analytical system and must be collected by the sampling system during the compliance test just as the compliance samples are collected. If a liquid or solid audit sample is designed to audit the sampling system, it must also be collected by the sampling system during the compliance test. If multiple sampling systems or sampling trains are used during the compliance test for any of the test methods, the tester is only required to use one of the sampling systems per method to collect the audit sample. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system and at the same time as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. Acceptance of the test results shall constitute a waiver of the reanalysis requirement, further audits, or retests. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at or near the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

(A) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes. No audit samples are required for the following test methods: Methods 3C of Appendix A–3 of Part 60, Methods 6C, 7E, 9, and 10 of Appendix A–4 of Part 60, Method 18 of Appendix A–6 of Part 60, Methods 20, 22, and 25A of Appendix A–7 of Part 60, and Methods 303, 318, 320, and 321 of Appendix A of Part 63. If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test. The compliance authority responsible for the compliance test may waive the requirement to include an audit sample if they believe that an audit sample is not necessary. "Commercially available" means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult

the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc,* to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source owner, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and report to the AASP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The tester may request and the compliance authority may grant a waiver to the requirement that a representative of the compliance authority must be present at the testing site during the field analysis of an audit sample. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and then report the results of the audit sample to the AASP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(B) An AASP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples will be prepared and distributed in a manner that will ensure the integrity of the audit sample program. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

(1) Preparing the sample;

(2) Confirming the true concentration of the sample;

(3) Defining the acceptance limits for the results from a well qualified tester. This procedure must use well established statistical methods to analyze historical results from well qualified testers. The acceptance limits shall be set so that there is 95 percent confidence that 90 percent of well qualified labs will produce future results that are within the acceptance limit range;

(4) Providing the opportunity for the compliance authority to comment on the selected concentration level for an audit sample;

(*5*) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

(*6*) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(*7*) Reporting the results from each audit sample in a timely manner to the compliance authority and to the source owner, operator, or representative by the AASP. The AASP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, and whether the testing company passed or failed the audit. The AASP shall report the true value of the audit sample to the compliance authority. The AASP may report the true value to the source owner, operator, or representative if the AASP's operating plan ensures that no laboratory will receive the same audit sample twice.

(*8*) Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed.

(*9*) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(C) The accrediting body shall have a written technical criteria document that describes how it will ensure that the AASP is operating in accordance with the AASP technical criteria document that describes how audit samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

(*1*) Checking audit samples to confirm their true value as reported by the AASP.

(*2*) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years.

(*3*) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(D) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A–119*. A copy of Circular A–119 is available upon request by writing the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, by calling (202) 395–6880 or downloading online at *http://standards.gov/standards_gov/a119.cfm*. The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in paragraphs (c)(2)(iii)(B) through (C) of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents shall be posted on the EPA Web site at the following URL, *http://www.epa.gov/ttn/emc*.

* * * * *

Appendix A to Part 63—[Amended]

■ 15. Amend Appendix A to Part 63 as follows:

■ a. In Method 306 by removing Sections 7.5, 7.5.1, 7.5.2, 9.1.8, 9.1.8.1, 9.1.8.2, 9.1.8.3, 9.1.9, 9.1.9.1, 9.1.9.2, 9.1.9.3, 9.1.9.4, 9.2.8, 9.2.8.1, 9.2.8.2, 9.2.8.3, 9.2.9, 9.2.9.1, 9.2.9.2, 9.2.9.3, 9.2.9.4, 9.3.6, 9.3.6.1, 9.3.6.2, 9.3.6.3, 9.3.7, 9.3.7.1, 9.3.7.2, 9.3.7.3, and 9.3.7.4.

■ b. In Method 306A by removing Sections 7.5, 7.5.1, and 7.5.2.

■ c. In Method 308 by removing Sections 9.2, 9.3, 9.4, and 9.5.

* * * * *

[FR Doc. 2010–21820 Filed 9–10–10; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
September 13, 2010

Part III

The President

Notice of September 10, 2010—Continuation of the National Emergency With Respect to Certain Terrorist Attacks

Federal Register
Vol. 75, No. 176
Monday, September 13, 2010

Presidential Documents

Title 3—

The President

Notice of September 10, 2010

Continuation of the National Emergency With Respect to Certain Terrorist Attacks

Consistent with section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), I am continuing for 1 year the national emergency previously declared on September 14, 2001, in Proclamation 7463, with respect to the terrorist attacks of September 11, 2001, and the continuing and immediate threat of further attacks on the United States.

Because the terrorist threat continues, the national emergency declared on September 14, 2001, and the powers and authorities adopted to deal with that emergency must continue in effect beyond September 14, 2010. Therefore, I am continuing in effect for an additional year the national emergency that was declared on September 14, 2001, with respect to the terrorist threat.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
September 10, 2010.

[FR Doc. 2010–22988
Filed 9–10–10; 1:30 pm]
Billing code 3195–W0–P

Reader Aids

Federal Register

Vol. 75, No. 176

Monday, September 13, 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
54271–54460 7
54461–54758 8
54759–55254 9
55255–55452 10
55453–55662 13

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
8550 54449
8551 54451
8552 54453
8553 54455
8554 54757
8555 55253

Executive Orders:
13551 53837
13552 54263

Administrative Orders:
Presidential Determinations:
No. 2010-13 of September 2, 2010 54459
Notice of September 10, 2010 55661

6 CFR

Proposed Rules:
5 .....54528, 55290

7 CFR

6 53565
301 54461
761 54005
762 54005
764 54005
765 54005
766 54005
1250 55255
3430 54759

Proposed Rules:
253 54530
1250 55292

10 CFR

Proposed Rules:
430 54048
431 55068

11 CFR

100 55257

12 CFR

740 53841
745 53841

Proposed Rules:
1101 54052

14 CFR

39 .....53843, 53846, 53849, 53851, 53855, 53857, 53859, 53861, 54462, 55453, 55455, 55459, 55461
71 55267
73 53863
97 .....54766, 54769

Proposed Rules:
39 .....53609, 54536, 55492
71 .....53876, 54057, 54058

15 CFR

730 53864
732 53864
734 .....53864, 54271
736 53864
738 53864
740 53864
742 .....53864, 54271
743 .....53864, 54271
744 .....53864, 54271
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, 54271
774 .....53864, 54271
922 53567

Proposed Rules:
742 54540
744 54540
746 54540
806 53611

16 CFR

310 55269

17 CFR

1 55410
3 55410
4 55410
5 55410
10 55410
140 55410
145 55410
147 55410
160 55410
166 55410
200 54464
240 54465
249 54465

Proposed Rules:
4 54794
16 .....54801, 54802
Ch. II 55295
232 54059

18 CFR

Proposed Rules:
35 54063

20 CFR

416 54285
641 53786

21 CFR

510 ....54016, 54017
520 ....54018, 54492
524 54492
522 ....54017, 54018
558 54019
870 54493
1310 53867

24 CFR

Ch. II 54020

25 CFR

542 55269
543 55269

26 CFR

Proposed Rules:
1 ....54541, 54802
31 54541

27 CFR

Proposed Rules:
9 53877

29 CFR

Proposed Rules:
1908 54064
2570 54542

30 CFR

Proposed Rules:
Chap. I 54804

31 CFR

575 55462
576 55463

33 CFR

117 ....54023, 54024, 54770, 54771, 55475
127 54025
154 54025
155 ....54025, 54026
165 ....53572, 53574, 53870, 54026, 54771, 55270, 55272, 55477

Proposed Rules:
117 54069

36 CFR

Proposed Rules:
294 54542
1192 54543
1253 54543
1254 54543
1280 54543

38 CFR

3 54496
17 ....54028, 54496

Proposed Rules:
5 53744
76 54069

39 CFR

111 54287

40 CFR

51 55636
52 ....54031, 54773, 54778, 55271
55 55277
60 ....54970, 55271, 55636
61 ....55271, 55636
63 ....54970, 55636
81 ....54031, 54497
180 ....53577, 53581, 53586, 54033
228 54497
300 ....54779, 55479

Proposed Rules:
51 53613
52 ....53613, 53883, 53892, 53907, 54292, 54805, 54806, 55494
60 53908
72 53613
78 53613
97 53613
140 53914
300 54821

42 CFR

Proposed Rules:
100 55503
447 54073

44 CFR

64 55280
67 55480

Proposed Rules:
61 54076
67 ....55507, 55515, 55527

45 CFR

Ch. XXV 54789

47 CFR

20 54508
64 54040
300 54790

Proposed Rules:
Ch. 1 55297
20 54546

48 CFR

207 54524
211 54524
217 54526
227 54527
237 54524
252 54527

Proposed Rules:
53 54560
3001 55529
3002 55529
3003 55529
3004 55529
3005 55529
3006 55529
3009 55529
3012 55529
3018 55529
3022 55529
3023 55529
3033 55529
3035 55529
3036 55529
3042 55529
3045 55529
3052 55529
3053 55529

49 CFR

107 53593
171 53593
172 53593
173 53593
176 53593
177 53593
179 53593
180 53593
385 55488
395 55488
544 54041

50 CFR

17 53598
20 53774
635 53871
648 ....53871, 54290, 55286
660 54791
665 ....53606, 54044
679 ....53606, 53608, 53873, 53874, 53875, 54290, 54792, 55288

Proposed Rules:
17 ....53615, 54561, 54708, 54822
23 54579
223 53925
300 54078
648 ....53939, 54292

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.