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**WHEN:** Tuesday, November 9, 2010  
9 a.m.-12:30 p.m.

**WHERE:** Office of the Federal Register  
Conference Room, Suite 700  
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Washington, DC 20002

**RESERVATIONS:** (202) 741-6008



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Proclamation 8571 of October 1, 2010

The President

National Arts and Humanities Month, 2010

By the President of the United States of America

## A Proclamation

Throughout history, the arts and humanities have helped men and women around the globe grapple with the most challenging questions and come to know the most basic truths. In our increasingly interconnected world, the arts play an important role in both shaping the character that defines us and reminding us of our shared humanity. This month, we celebrate our Nation's arts and humanities, and we recommit to ensuring all Americans can access and experience them.

Our strength as a Nation has always come from our ability to recognize ourselves in each other, and American artists, historians, and philosophers have helped enable us to find our common humanity. Through powerful scenes on pages, canvases, and stages, the arts have spurred our imaginations, lifted our hearts, and united us all without regard to belief or background.

The arts and humanities have also helped fuel our economy as well as our souls. Across our country, men and women in the non-profit and for-profit arts industries bring arts and cultural activities to our communities, contributing tens of billions of dollars to our economy each year. Today, arts workers are revitalizing neighborhoods, attracting new visitors, and fostering growth in places that have gone too long without it.

As we work to bring the power of the arts and humanities to all Americans, my Administration remains committed to providing our children with an education that inspires as it informs. Exposing our students to disciplines in music, dance, drama, design, writing, and fine art is an important part of that mission. To promote arts education and pay tribute to America's vibrant culture, First Lady Michelle Obama and I have been proud to host a White House Music Series, Dance Series, and Poetry Jam. We have been honored to bring students, workshops, and performers to "the People's House;" to highlight jazz, country, Latin, and classical music; and to invite Americans to listen to the music of the civil rights movement, hip-hop, and Broadway.

By supporting the fields that feed our imagination, strengthen our children's education, and contribute to our economy, our country will remain a center of creativity and innovation, and our society will stand as one where dreams can be realized. As we reflect on the contributions of America's artists, we look forward to hearing their tales still untold, their perspectives still unexplored, and their songs still unwritten. May they continue to shed light on trials and triumphs of the human spirit, and may their work help ensure that our children's horizons are ever brighter.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2010 as National Arts and Humanities Month. I call upon the people of the United States to join together in observing this month with appropriate ceremonies, activities, and programs to celebrate the arts and the humanities in America.

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

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a vertical line through it, and a horizontal line extending to the right.

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## Presidential Documents

**Proclamation 8572 of October 1, 2010**

**National Breast Cancer Awareness Month, 2010**

**By the President of the United States of America**

### **A Proclamation**

While considerable progress has been made in the fight against breast cancer, it remains the most frequently diagnosed type of non-skin cancer and the second leading cause of cancer deaths among women in our country. This year alone, over 200,000 Americans will be diagnosed and nearly 40,000 lives will be claimed. During National Breast Cancer Awareness Month, we reaffirm our commitment to supporting breast cancer research, and to educating all Americans about its risk factors, detection, and treatment. As we display pink ribbons on our lapels, offices, and storefronts, we also support those courageously fighting breast cancer and honor the lives lost to this devastating disease.

Thanks to earlier detection and better treatments, mortality rates for breast cancer have steadily decreased in the last decade. To advance the life-saving research that has breathed promise into countless lives, the National Institutes of Health, the Centers for Disease Control and Prevention, and the Department of Defense are investing hundreds of millions of dollars annually in breast cancer research and related programs. Through funding from the Recovery Act, the National Cancer Institute is also conducting and supporting research and training projects, as well as distributing health information, to help Americans with breast cancer and health care providers face this disease.

Knowing what may contribute to breast cancer is an important part of its prevention. Risk factors for breast cancer include family and personal history, radiation therapy to the chest for previous cancers, obesity, and certain genetic changes. Being cognizant of these possible risk factors, as well as maintaining a healthy body weight and balanced diet, exercising regularly, and getting regular screenings, may help lower the chances of developing breast cancer. I encourage all women and men to talk with their health care provider about their risks and what they can do to mitigate them, and to visit [Cancer.gov](http://Cancer.gov) to learn about the symptoms, diagnosis, and treatment of breast and other cancers.

Screenings and early detection are also essential components in the fight against breast cancer. For women ages 40 and over, regular mammograms and clinical breast exams by health care providers every one to two years are the most effective ways to find breast cancer early, when it may be easier to treat. Women at higher risk of breast cancer should discuss with their health care providers whether they need mammograms before age 40, as well as how often to have them. Regular mammograms, followed by timely treatment when breast cancer is diagnosed, can help improve the chances of surviving this disease.

In order to detect breast cancer early, we must ensure all women can access these important screenings. The Affordable Care Act, which I was proud to sign into law earlier this year, requires all new health insurance policies to cover recommended preventive services without any additional cost, including annual mammography screenings for women over age 40.

The Affordable Care Act will also ensure that people who have been diagnosed with breast cancer cannot be excluded from coverage for a pre-existing condition or charged higher premiums.

During National Breast Cancer Awareness Month, we stand with our mothers, daughters, sisters, and friends, and we recognize all who have joined their loved ones in fighting their battle, as well as the advocates, researchers, and health care providers whose care and hard work gives hope to those living with breast cancer. By educating ourselves and supporting innovative research, we will improve the quality of life for all Americans affected by breast cancer and, one day, defeat this terrible disease.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2010 as National Breast Cancer Awareness Month. I encourage citizens, Government agencies, private businesses, nonprofit organizations, and all other interested groups to join in activities that will increase awareness of what Americans can do to prevent and control breast cancer.

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

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style. The signature is positioned to the right of the text above it.

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## Presidential Documents

**Proclamation 8573 of October 1, 2010**

### **National Cybersecurity Awareness Month, 2010**

**By the President of the United States of America**

#### **A Proclamation**

America's digital infrastructure is critical to laying the foundation for our economic prosperity, government efficiency, and national security. We stand at a transformational moment in history, when our technologically interconnected world presents both immense promise and potential risks. The same technology that provides new opportunities for economic growth and the free exchange of information around the world also makes possible new threats. During National Cybersecurity Awareness Month, we recognize the risk of cyber attacks and the important steps we can take to strengthen our digital literacy and cybersecurity.

America relies on our digital infrastructure daily, and protecting this strategic asset is a national security priority. My Administration is committed to advancing both the security of our informational infrastructure and the cutting-edge research and development necessary to meet the digital challenges of our time. Earlier this year, we marked the one-year anniversary of my Administration's thorough review of Federal efforts to defend our Nation's information technology and communications infrastructure. We must continue to work closely with a broad array of partners—from Federal, State, local, and tribal governments to foreign governments, academia, law enforcement, and the private sector—to reduce risk and build resilience in our shared critical information and communications infrastructure.

All Americans must recognize our shared responsibility and play an active role in securing the cyber networks we use every day. National Cybersecurity Awareness Month provides an opportunity to learn more about the importance of cybersecurity. To that end, the Department of Homeland Security and the Federal Trade Commission have highlighted basic cybersecurity tips every computer user should adopt, including using security software tools, backing up important files, and protecting children online. I urge all Americans to visit [DHS.gov/Cyber](http://DHS.gov/Cyber) and [OnGuardOnline.gov](http://OnGuardOnline.gov) for more information about practices that can enhance the security of our shared cyber networks.

Effective cyber networks connect us and allow us to conduct business around the globe faster than ever before. We must advance innovative public- and private-sector initiatives to protect the confidentiality of sensitive information, the integrity of e-commerce, and the resilience of our cyber infrastructure. Together with businesses, community-based organizations, and public- and private-sector partners, we are launching a National Cybersecurity Awareness Campaign: "Stop. Think. Connect." Through this initiative, Americans can learn about and become more aware of risks in cyberspace, and be empowered to make choices that contribute to our overall security.

The growth and spread of technology has already transformed international security and the global marketplace. So long as the United States—the Nation that created the Internet and launched an information revolution—continues to be a pioneer in both technological innovation and cybersecurity, we will maintain our strength, resilience, and leadership in the 21st century.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2010 as National Cybersecurity Awareness Month. I call upon the people of the United States to recognize the importance of cybersecurity and to observe this month with activities, events, and trainings that will enhance our national security and resilience.

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

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style. The signature is positioned to the right of the text above it.

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## Presidential Documents

**Proclamation 8574 of October 1, 2010**

### **National Disability Employment Awareness Month, 2010**

**By the President of the United States of America**

#### **A Proclamation**

As Americans, we understand employment and economic security are critical to fulfilling our hopes and aspirations. We also know we are stronger when our country and economy can benefit from the skills and talents of all our citizens. No individual in our Nation should face unnecessary barriers to success, and no American with a disability should be limited in his or her desire to work. During National Disability Employment Awareness Month, we renew our focus on improving employment opportunities and career pathways that lead to good jobs and sound economic futures for people with disabilities.

This year marks the 20th anniversary of the Americans with Disabilities Act (ADA), the landmark civil rights legislation that established a foundation of justice and equal opportunity for individuals with disabilities. In the two decades since its passage, much progress has been made. However, Americans with disabilities continue to be employed at a rate far below Americans without disabilities, and they are underrepresented in our Federal workforce.

My Administration is committed to ensuring people living with disabilities have fair access to jobs so they can contribute to our economy and realize their dreams. To help achieve this goal, I signed an Executive Order in July to increase Federal employment of individuals with disabilities. This directive requires Federal agencies to design model recruitment and hiring strategies for people with disabilities, and to implement programs to retain these public servants. To ensure transparency and accountability, agencies will report on their progress on hiring people with disabilities, and the Office of Personnel Management will post the results of agencies' efforts online for public evaluation. As the Nation's largest employer, the Federal Government can become a model employer by increasing employment across America of individuals with disabilities.

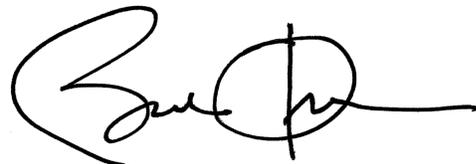
The 21st-century economy demands a highly educated workforce equipped with the technology and skills to maintain America's leadership in the global marketplace. Technology has changed the way we work, and the Federal Government is leveraging emerging, assistive, and other workplace technologies to improve the options available for everyone, including workers with disabilities. We must improve the accessibility of our workplaces and enable the collaboration and contributions of every employee, and that is why I look forward to signing into law the Twenty-First Century Communications and Video Accessibility Act of 2010. This legislation will greatly increase access to technology, with advances in areas such as closed captioning, delivery of emergency information, video description, and other advanced communications—all essential tools for learning and working in today's technological society.

Individuals with disabilities are a vital and dynamic part of our Nation, and their contributions have impacted countless lives. People with disabilities bring immeasurable value to our workplaces, and we will continue to address the challenges to employment that must be overcome. This month, let us rededicate ourselves to fostering equal access and fair opportunity

in our labor force, and to capitalizing on the talent, skills, and rich diversity of all our workers.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2010 as National Disability Employment Awareness Month. I urge all Americans to embrace the unique value that individuals with disabilities bring to our workplaces and communities and to promote everyone's right to employment.

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

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style. The signature is positioned to the right of the main text block.

[FR Doc. 2010-25574

Filed 10-7-10; 8:45 am]

Billing code 3195-W1-P

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## Presidential Documents

**Proclamation 8575 of October 1, 2010**

**National Domestic Violence Awareness Month, 2010**

**By the President of the United States of America**

### **A Proclamation**

In the 16 years since the passage of the Violence Against Women Act (VAWA), we have broken the silence surrounding domestic violence to reach thousands of survivors, prevent countless incidences of abuse, and save untold numbers of lives. While these are critical achievements, domestic violence remains a devastating public health crisis when one in four women will be physically or sexually assaulted by a partner at some point in her lifetime. During Domestic Violence Awareness Month, we recognize the tremendous progress made in reducing domestic violence, and we recommit to making everyone's home a safe place for them.

My Administration is committed to reducing the prevalence of domestic violence. Last year, I appointed the first-ever White House Advisor on Violence Against Women to collaborate with the many Federal agencies working together to end domestic violence in this country. Together with community efforts, these Federal programs are making important strides towards eliminating abuse.

The landmark Affordable Care Act also serves as a lifeline for domestic violence victims. Before I signed this legislation in March, insurance companies in eight States and the District of Columbia were able to classify domestic violence as a pre-existing condition, leaving victims at risk of not receiving vital treatment when they are most vulnerable. Now, victims need not fear the additional burden of increased medical bills as they attempt to protect themselves and rebuild their lives.

Individuals of every race, gender, and background face domestic violence, but some communities are disproportionately affected. In order to combat the prevalence of domestic violence and sexual assault in tribal areas, I signed the Tribal Law and Order Act to strengthen tribal law enforcement and its ability to prosecute and fight crime more effectively. This important legislation will also help survivors of domestic violence get the medical attention, services, support, and justice they need.

Children exposed to domestic violence, whether victims or witnesses, also need our help. Without intervention, they are at higher risk for failure in school, emotional disorders, substance abuse, and perpetrating violent behavior later in life. That is why my Administration has launched the "Defending Childhood" initiative at the Department of Justice to revitalize prevention, intervention, and response systems for children exposed to violence. The Department of Health and Human Services is also expanding services and enhancing community responses for children exposed to violence.

Ending domestic violence requires a collaborative effort involving every part of our society. Our law enforcement and justice system must work to hold offenders accountable and to protect victims and their children. Business, faith, and community leaders, as well as educators, health care providers, and human service professionals, also have a role to play in communicating that domestic violence is always unacceptable. As a Nation, we must endeavor to protect survivors, bring offenders to justice, and change

attitudes that support such violence. I encourage victims, their loved ones, and concerned citizens to call the National Domestic Violence Hotline at 1-800-799SAFE or visit: [www.TheHotline.org](http://www.TheHotline.org).

This month—and throughout the year—let each of us resolve to be vigilant in recognizing and combating domestic violence in our communities, and let us build a culture of safety and support for all those affected.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2010 as National Domestic Violence Awareness Month. I call on all Americans to speak out against domestic violence and support local efforts to assist victims of these crimes in finding the help and healing they need.

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

A handwritten signature in black ink, appearing to be "Barack Obama", with a large, stylized initial "B" and a circular flourish.

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## Presidential Documents

**Proclamation 8576 of October 1, 2010**

**National Energy Awareness Month, 2010**

**By the President of the United States of America**

### **A Proclamation**

America's energy resources are inextricably linked to our continued prosperity, security, and environmental health. When it comes to our Nation's energy future, we face fundamental choices between action and inaction, between embracing the possibilities of a new clean energy economy and settling for the status quo, and between leading the world in clean energy and lagging behind. We must choose wisely and invest in clean energy technologies to position our country for a sustainable future, create new jobs, improve the health of our environment, and lay the foundation for our long-term economic security and prosperity.

The time to act is now. Every year our overdependence on fossil fuels sends billions of dollars overseas to buy foreign oil instead of supporting American workers and farmers, rewarding innovation, and developing clean energy industries here at home. Fossil fuel pollution has already begun to change our climate, posing a grave and growing danger to our economy, our national security, and our environment.

Over the last year and a half, we have taken unprecedented action to build a clean energy economy. The American Recovery and Reinvestment Act made a \$90 billion down-payment on a clean energy future for our country. This critical investment is expanding manufacturing capacity for clean energy technologies; advancing vehicle and fuel technologies; spurring the development of renewable fuels; and catalyzing progress towards a bigger, better, smarter electric grid; all while creating new jobs that cannot be shipped overseas. My Administration also set tough new fuel-economy standards and the first greenhouse gas emissions standards for cars and light trucks. Additionally, I signed an Executive Order that empowers the Federal Government to lead by example by cutting its energy use. As our Nation's single largest energy consumer, the Federal Government has an obligation to improve its energy efficiency, increase its use of renewable energy, cut greenhouse gas pollution, and leverage its purchasing power to advance a clean energy economy.

Across the country, citizens themselves are helping to lead the way. In small towns and city neighborhoods, on college campuses and in houses of worship, in office buildings and on the shop floor, Americans are standing up and building a clean energy economy together through community information, education, and action.

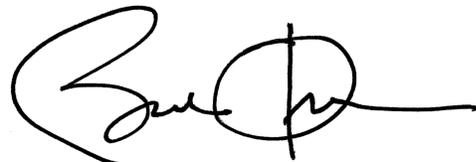
This progress must mark the start, not the end, of our efforts. Today, countries around the world are competing to create the clean energy economy and jobs of tomorrow, and the country that harnesses the power of clean energy will lead the global economy. As a Nation of scientists and engineers, farmers and entrepreneurs, we must continue to invest in clean, domestic sources of energy, harness the innovation of our brightest minds, promote our world-leading industries, and find lasting solutions to our energy challenges.

If we seize this moment, we stand to strengthen our economy, enhance our national security, and preserve our environment. During National Energy

Awareness Month, let us commit to embarking on a new course to achieve our clean energy future.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 2010 as National Energy Awareness Month. I call upon the citizens of the United States to recognize this month by making clean energy choices that will help build a stronger Nation, a more robust economy, and a healthier environment for our children.

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

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style. The signature is positioned to the right of the text.

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## Presidential Documents

**Proclamation 8577 of October 1, 2010**

**Fire Prevention Week, 2010**

**By the President of the United States of America**

### **A Proclamation**

During Fire Prevention Week, we reaffirm the importance of fire safety and awareness, and we pay tribute to our firefighters, volunteers, and first responders who put themselves in harm's way to protect our lives, homes, and communities every day.

Each of us can take precautions in our homes to safeguard our loved ones from the hazards of fire. Smoke alarms are vital detection devices, and properly installing and maintaining them in the home can help keep our families safe. Residential sprinkler systems can give individuals extra time to evacuate a home safely in case of an emergency as well. This year's theme, "Smoke Alarms: A sound you can live with," encourages all Americans to test alarms at least once a month, and to check their batteries and locations.

Parents and caregivers should also take the time to discuss and practice emergency plans with children in the event of a fire. Additionally, around the home, it is important to ensure electronic appliances, machines, and heating units are plugged in and operated properly. With responsible use of fire indoors and outdoors—from safely disposing of matches and cigarettes to increased attention when cooking on grills or building a campfire—we can avoid untold numbers of emergencies, injuries, and lives lost to fire and its consequences.

Fire Prevention Week also calls our attention to the lifesaving work our firefighters perform in communities across America. These courageous professionals are the first ones on the scene during an emergency, fearlessly charging up smoke-filled staircases as people rush down them. Some have paid the ultimate sacrifice in the line of duty. Our Nation is profoundly grateful for the dedication and tireless efforts of our firefighters and first responders in their selfless service to our communities.

I encourage all Americans to take preventative measures during Fire Prevention Week to protect themselves, their families, and their communities from the hazards of fire and to express gratitude to our firefighters and first responders. Together, we can ensure the resilience and safety of our neighborhoods, and aid the brave men and women who risk their lives every day to protect us.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 3 through October 9, 2010, as Fire Prevention Week. On Sunday, October 3, 2010, in accordance with Public Law 107-51, the flag of the United States will be flown at half-staff on all Federal office buildings in honor of the National Fallen Firefighters Memorial Service. I call on all Americans to participate in this observance with appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

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

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a vertical line through it, and a horizontal line extending to the right.

## Presidential Documents

Memorandum of October 4, 2010

### Establishing a Task Force on Skills for America's Future

#### Memorandum for the Heads of Executive Departments and Agencies

In order to compete in the global economy, the United States needs the most educated workforce in the world. The high-wage jobs of the 21st century will require more knowledge and skills than the jobs of the past. We therefore must develop innovative strategies to train more Americans with the skills that businesses and the economy will need to ensure American competitiveness.

Community colleges are a key part of our education system, providing a flexible and affordable place to sharpen relevant workforce skills and align them with the needs of employers in their communities. Traditional four-year colleges, on-line institutions, and nontraditional educational outlets also can play an essential role in providing training opportunities. To prepare students for 21st-century jobs, these institutions need to develop flexible, affordable, and responsive training programs that meet regional and national economic needs. An important way to ensure that training programs meet such needs is through partnerships between these institutions and labor unions, small businesses, and other regional employers. As educational institutions develop these innovative programs, we should assess what works and what does not, so that we reward excellent outcomes and true innovation that meets the needs of entrepreneurs and other employers in every part of the country, from rural communities to urban centers.

Therefore, I am establishing a task force to develop skills for America's future by identifying, developing, and increasing the scale of promising approaches to improving the skills of our Nation's workers. By coordinating the work of relevant agencies with that of nonprofits, labor unions, and private sector organizations, and by leveraging the assets of these entities, this effort will build better partnerships between businesses, community colleges, and other training providers to get Americans trained for the jobs of today and tomorrow.

**Section 1. *Establishment.*** There is established an interagency Task Force on Skills for America's Future (Task Force) to ensure that Federal policies promote innovative training programs and curricula, including successful public-private partnerships, at community colleges as well as in other settings, that will prepare the American workforce for 21st-century jobs. The Chair of the Council of Economic Advisers, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy shall serve as Co-Chairs of the Task Force.

**Sec. 2. *Membership.*** In addition to the Co-Chairs, the Task Force shall consist of the following members, or any senior official designated by one of the following members who is a part of the member's department, agency, or office, and who is a full time employee of the Federal Government:

- (a) the Secretary of Defense;
- (b) the Secretary of Agriculture;
- (c) the Secretary of Commerce;
- (d) the Secretary of Labor;
- (e) the Secretary of Health and Human Services;

- (f) the Secretary of Transportation;
- (g) the Secretary of Energy;
- (h) the Secretary of Education;
- (i) the Secretary of Veterans Affairs;
- (j) the Director of the Office of Management and Budget;
- (k) the Administrator of the Small Business Administration;
- (l) the Director of the Office of Science and Technology Policy; and
- (m) the heads of other executive departments, agencies, or offices as the Co-Chairs may designate.

**Sec. 3. Administration.** The Council of Economic Advisers shall provide administrative support for the Task Force to the extent permitted by law and within existing appropriations.

**Sec. 4. Mission and Functions.** The Task Force shall work across executive departments and agencies to ensure that Federal policies facilitate, and offer incentives for, innovative career-training and education opportunities at community colleges as well as in other settings, and that these opportunities are directly related to skills and job requirements across a range of industries. Using the best evidence available regarding effective practice, the Task Force shall develop recommendations and options for meeting the following objectives:

(a) improved public-private collaboration to develop career pathway and training programs with effective curricula, certifiable skills, and industry-recognized credentials and degrees;

(b) identification of opportunities to amplify, accelerate, or increase the scale of, successful public-private partnerships that match trained workers with prospective employers;

(c) identification and development of stackable credentials that provide entry to and advancement along a career pathway in an in-demand occupation;

(d) outreach to relevant stakeholders—including industry, the adult workforce, younger students, educational institutions, labor unions, policymakers, and community leaders—with expertise in skill development;

(e) alignment of workforce training programs funded by the Departments of Education and Labor, as well as other Federal agencies, with innovative practices and regional market demands, to build on effective skills-based training for adult workers and younger students, including individuals with disabilities;

(f) partnership with appropriate non-profit entities to engage the private sector in developing effective training programs that provide students with recognizable and portable skills that are needed in the marketplace; and

(g) greater use of technology to improve training, skills assessment, and labor market information.

**Sec. 5. General Provisions.**

(a) This memorandum shall be implemented consistent with applicable law and subject to the availability of any necessary appropriations.

(b) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) The heads of executive departments and agencies shall assist and provide information to the Task Force, consistent with applicable law, as may be necessary to carry out the functions of the Task Force. Each executive department, agency, and office shall bear its own expenses of participating in the Task Force.

(d) The Chair of the Council of Economic Advisers is hereby authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in black ink, appearing to read "Paul D. Miller". The signature is stylized with a large initial "P" and a circular flourish.

THE WHITE HOUSE,  
Washington, October 4, 2010

[FR Doc. 2010-25579  
Filed 10-7-10; 8:45 am]  
Billing code 3195-W1-P

## Presidential Documents

### Executive Order 13554 of October 5, 2010

#### Establishing the Gulf Coast Ecosystem Restoration Task Force

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Purpose.** The Gulf Coast is a national treasure. Its natural resources are an important economic engine for the entire United States; its waters sustain a diverse and vibrant ecosystem; and the Gulf's culture, natural beauty, and historic significance are unique. Each year, millions of tourists visit the Gulf to vacation, swim, boat, fish, hunt, and bird-watch; and, together, the Gulf's tourism and commercial and recreational fishing industries make a significant contribution to the United States economy. More than 90 percent of the Nation's offshore oil and gas is produced in the Gulf, and it is where nearly one-third of seafood production in the continental United States is harvested.

The United States needs a vibrant Gulf Coast, and the Federal Government is committed to helping Gulf Coast residents conserve and restore resilient and healthy ecosystems in the Gulf of Mexico and surrounding regions that support the diverse economies, communities, and cultures of the region. To effectively address the damage caused by the BP Deepwater Horizon Oil Spill, address the longstanding ecological decline, and begin moving toward a more resilient Gulf Coast ecosystem, ecosystem restoration is needed. Ecosystem restoration will support economic vitality, enhance human health and safety, protect infrastructure, enable communities to better withstand impact from storms and climate change, sustain safe seafood and clean water, provide recreational and cultural opportunities, protect and preserve sites that are of historical and cultural significance, and contribute to the overall resilience of our coastal communities and Nation.

In order to achieve these objectives, it is necessary that Federal efforts be efficiently integrated with those of local stakeholders and that particular focus be given to innovative solutions and complex, large-scale restoration projects. Efforts must be science-based and well-coordinated to minimize duplication and ensure effective delivery of services. This order establishes a Gulf Coast Ecosystem Restoration Task Force to coordinate intergovernmental responsibilities, planning, and exchange of information so as to better implement Gulf Coast ecosystem restoration and to facilitate appropriate accountability and support throughout the restoration process.

**Sec. 2. Establishment of the Gulf Coast Ecosystem Restoration Task Force.** There is established the Gulf Coast Ecosystem Restoration Task Force (Task Force).

(a) The Task Force shall consist of:

(1) A senior official from each of the following executive departments, agencies, and offices, selected by the head of the respective department, agency, or office:

- a. the Department of Defense;
- b. the Department of Justice;
- c. the Department of the Interior;
- d. the Department of Agriculture;
- e. the Department of Commerce;
- f. the Department of Transportation;

- g. the Environmental Protection Agency;
- h. the Office of Management and Budget;
- i. the Council on Environmental Quality;
- j. the Office of Science and Technology Policy;
- k. the Domestic Policy Council; and

l. other executive departments, agencies, and offices as the President may, from time to time, designate.

(2) Five State representatives, appointed by the President upon recommendation of the Governors of each Gulf State, who shall be elected officers of State governments (or their designated employees with authority to act on their behalf) acting in their official capacities.

(b) The Task Force may include representatives from affected tribes, who shall be elected officers of those tribes (or their designated employees with authority to act on their behalf) acting in their official capacities. The Task Force shall, in collaboration with affected tribes, determine an appropriate structure for tribal participation in matters within the scope of the Task Force's responsibilities.

(c) The President shall designate a Chair of the Task Force from among senior officials of executive departments, agencies, and offices represented on the Task Force. The Chair shall lead the coordination of intergovernmental Gulf Coast ecosystem restoration efforts and oversee the work of the Task Force. The Chair shall regularly convene and preside at meetings of the Task Force, determine its agenda, and direct its work. The Chair's duties shall also include:

(1) facilitating a smooth transition from the response phase of addressing the BP Deepwater Horizon Oil Spill to the restoration phase;

(2) communicating and engaging with States, tribes, local governments, other stakeholders in the Gulf Coast region, and the public on ecosystem restoration, as well as other aspects of Gulf recovery, including economic recovery and public health efforts; and

(3) coordinating the efforts of executive departments, agencies, and offices related to the functions of the Task Force.

(d) Representatives of the Gulf States under subsection (a)(2) of this section shall select from among themselves a Vice-Chair of the Task Force.

**Sec. 3. Functions of the Task Force.** The Task Force shall be an advisory body to:

(a) coordinate intergovernmental efforts to improve efficiency and effectiveness in the implementation of Gulf Coast ecosystem restoration actions;

(b) support the Natural Resource Damage Assessment process by referring potential ecosystem restoration actions to the Natural Resource Damage Assessment Trustee Council for consideration and facilitating coordination among the relevant departments, agencies, and offices, as appropriate, subject to the independent statutory responsibilities of the trustees;

(c) present to the President a Gulf of Mexico Regional Ecosystem Restoration Strategy (Strategy) as provided in section 4 of this order;

(d) engage local stakeholders, communities, the public, and other officials throughout the Gulf Coast region to ensure that they have an opportunity to share their needs and viewpoints to inform the work of the Task Force, including the development of the Strategy;

(e) provide leadership and coordination of research needs in support of ecosystem restoration planning and decisionmaking in the Gulf Coast region, and work with existing Federal and State advisory committees, as appropriate, to facilitate consideration of relevant scientific and technical knowledge;

(f) prepare a biennial update for the President on progress toward the goals of Gulf Coast ecosystem restoration, as outlined in the Strategy;

(g) communicate with affected tribes in a manner consistent with Executive Order 13175 of November 6, 2000, on consultation and coordination with Indian tribal governments; and

(h) coordinate with relevant executive departments, agencies, and offices on ways to encourage health and economic benefits associated with proposed ecosystem restoration actions.

**Sec. 4. *Gulf of Mexico Regional Ecosystem Restoration Strategy.*** (a) Within 1 year of the date of this order, the Task Force shall prepare a Strategy that proposes a Gulf Coast ecosystem restoration agenda, including goals for ecosystem restoration, development of a set of performance indicators to track progress, and means of coordinating intergovernmental restoration efforts guided by shared priorities. In developing the Strategy, the Task Force shall:

(1) define ecosystem restoration goals and describe milestones for making progress toward attainment of those goals;

(2) consider existing research and ecosystem restoration planning efforts in the region, including initiatives undertaken by the National Ocean Council and the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force (Gulf Hypoxia Task Force), in order to identify planning and restoration needs and ways under existing authorities to address those needs;

(3) identify major policy areas where coordinated intergovernmental action is necessary;

(4) propose new programs or actions to implement elements of the Strategy where existing authorities are not sufficient;

(5) identify monitoring, research, and scientific assessments needed to support decisionmaking for ecosystem restoration efforts and evaluate existing monitoring programs and gaps in current data collection; and

(6) describe the circumstances under which termination of the Task Force would be appropriate.

(b) The executive departments, agencies, and offices enumerated in section 2(a)(1) of this order shall, to the extent permitted by law, consider ways to align their relevant programs and authorities with the Strategy.

**Sec. 5. *Administration.*** (a) The Task Force shall have a staff, headed by an Executive Director, which shall provide support for the functions of the Task Force.

(b) The Executive Director shall be selected by the Chair and shall supervise, direct, and be accountable for the administration and operation of the Task Force.

(c) The Departments of Commerce (through the National Oceanic and Atmospheric Administration), the Interior (through the Fish and Wildlife Service), and Justice shall identify linkages and opportunities for the Task Force to complement the restoration progress of the Natural Resource Damage Assessment Trustee Council.

(d) At the request of the Chair, executive departments and agencies, including the Departments of Labor, Health and Human Services, Energy, and Homeland Security, the Small Business Administration, and the National Science Foundation, shall serve in an advisory role to the Task Force on issues within their expertise.

(e) The Task Force may establish such technical working groups as necessary to support its function. These working groups may include additional representatives from State and tribal governments, as appropriate, to provide for greater collaboration.

(f) The first meeting of the Task Force shall be held within 90 days of the date of this order.

**Sec. 6. *Definitions.*** (a) "Affected tribe" means any Indian tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges

to exist as an Indian tribe as defined in the Federally Recognized Tribe List Act of 1994 (25 U.S.C. 479a(2)), physically located in a Gulf State.

(b) "Ecosystem restoration" means all activities, projects, methods, and procedures appropriate to enhance the health and resilience of the Gulf Coast ecosystem, as measured in terms of the physical, biological, or chemical properties of the ecosystem, or the services it provides, and to strengthen its ability to support the diverse economies, communities, and cultures of the region. It includes activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity, and sustainability. It also includes protecting and conserving ecosystems so they can continue to reduce impacts from tropical storms and other disasters, support robust economies, and assist in mitigating and adapting to the impacts of climate change.

(c) "Gulf State" means any of the States of Texas, Louisiana, Mississippi, Alabama, and Florida.

(d) "Natural Resource Damage Assessment" means the process of collecting and analyzing information to evaluate the nature and extent of natural resource injuries resulting from the BP Deepwater Horizon Oil Spill and to determine the restoration actions needed to bring injured natural resources and services back to baseline conditions and make the environment and public whole for interim losses as defined in 15 CFR 990.30.

(e) "Natural Resource Damage Assessment Trustee Council" means the designated Federal, State, local, and tribal trustees as provided in 33 U.S.C. 2706, with trusteeship over natural resources injured, lost, or destroyed as a result of the BP Deepwater Horizon Oil Spill.

**Sec. 7. General Provisions.** (a) To the extent permitted by law and subject to the availability of appropriations, the department, agency, or office represented by the Chair shall provide the Task Force with such administrative services, funds, facilities, staff, and other support services as may be necessary for the Task Force to carry out its function.

(b) In addition to staff provided by the department, agency, or office represented by the Chair, other executive departments, agencies, and offices represented on the Task Force are requested to make services, staff, and facilities available to the Task Force for the performance of its function to the maximum extent practicable, to the extent permitted by law and subject to the availability of appropriations.

(c) Members of the Task Force shall serve without any additional compensation for their work on the Task Force.

(d) Nothing in this order shall be construed to impair or otherwise affect: (i) authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or (ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) Nothing in this order shall interfere with the statutory responsibilities and authority of the Natural Resource Damage Assessment Trustee Council or the individual trustees to carry out their statutory responsibilities to assess natural resource damages and implement restoration actions under 33 U.S.C. 2706 and other applicable law.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(g) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a horizontal line.

THE WHITE HOUSE,  
*October 5, 2010.*

[FR Doc. 2010-25578  
Filed 10-7-10; 8:45 am]  
Billing code 3195-W1-P

# Rules and Regulations

Federal Register

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Friday, October 8, 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.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0514; Directorate Identifier 2010-NE-02-AD; Amendment 39-16477; AD 2010-21-17]

RIN 2120-AA64

#### Airworthiness Directives; Pratt & Whitney JT8D-9, -9A, -11, -15, -17, and -17R Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Pratt & Whitney (PW) JT8D-9, -9A, -11, -15, -17, and -17R turbofan engines. This AD requires overhauling fan blade leading edges at the first shop visit after 4,000 cycles-in-service (CIS) since the last total fan blade overhaul was performed. This AD results from reports of failed fan blades. We are issuing this AD to prevent high-cycle fatigue cracking at the blade root, which could result in uncontained failures of first stage fan blades and damage to the airplane.

**DATES:** This AD becomes effective November 12, 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:** James Gray, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England

Executive Park, Burlington, MA 01803; e-mail: [james.e.gray@faa.gov](mailto:james.e.gray@faa.gov); telephone (781) 238-7742; 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 JT8D-9, -9A, -11, -15, -17, and -17R turbofan engines. We published the proposed AD in the **Federal Register** on May 19, 2010 (75 FR 27972). That action proposed to require overhauling fan blade leading edges at the first shop visit after 4,000 CIS since the last total fan blade overhaul was performed.

#### 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.

#### Request To Extend the Proposed AD Comment Period

Two commenters, Delta Airlines, Inc. and the National Transportation Safety Board, request that we extend the proposed AD comment period. The extension would allow time to determine the root cause of a fan blade failure on a Delta DC-9 airplane, occurring on June 14, 2010.

We do not agree. Extending the comment period would delay the rulemaking process. The root cause investigation can continue after the AD is issued. We did not change the AD.

#### Request for Clarification of Shop Visit

Delta Airlines, Inc. requests clarification of the shop visit definition in paragraph (i) of the proposed AD. Specifically, clarify whether a gearbox removal or gearbox change would fit into the shop visit definition. Also, that we clarify that a nose cowl removal or a thrust reverser removal not be

included in the shop visit definition. These actions involve components that mate to engine flanges.

We partially agree. We revised the definition of shop visit in the AD to include a clarification of "lettered flanges" after "pairs of major mating engine flanges." The procedures referenced by the commenter are shop visits according to the definition in paragraph (i) of the AD. Since the nose cowl and thrust reverser are not engine components, they would involve the separation of an engine flange with a non-engine flange. A gearbox removal would not involve a lettered flange. You can find further information on what is a lettered flange in the engine manual.

#### Clarification Requirements

Since we issued the proposed AD, we discovered that paragraphs (f) and (g) require clarification. We clarified those paragraphs in the AD, to state that the cycles-in-service apply to the fan blades.

#### 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.

#### Costs of Compliance

We estimate that this AD will affect 1,527 engines installed on airplanes of U.S. registry. We also estimate that it will take about 63 work-hours per engine to perform the actions, and that the average labor rate is \$85 per work-hour. No additional parts are required. Based on these figures, we estimate the total cost of the AD to U.S. operators to be \$8,177,085.

#### 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, 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:

**2010-21-17 Pratt & Whitney:** Amendment 39-16477. Docket No. FAA-2010-0514; Directorate Identifier 2010-NE-02-AD.

#### Effective Date

(a) This airworthiness directive (AD) becomes effective November 12, 2010.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D-9, -9A, -11, -15, -17, and -17R

turbofan engines. These engines are installed on, but not limited to, Boeing 727 series, Boeing 737-200 series and McDonnell Douglas DC-9 airplanes.

#### Unsafe Condition

(d) This AD results from reports of failed fan blades. We are issuing this AD to prevent high-cycle fatigue cracking at the blade root, which could result in uncontained failures of first stage fan blades 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.

#### Initial Overhaul

(f) For engines where the cycles-in-service (CIS) since the last overhaul of the fan blades are known, overhaul the total set of stage 1 fan blades at the first shop visit after 4,000 CIS since the last total stage 1 fan blade overhaul, or the next shop visit after the effective date of this AD, whichever occurs later. Guidance on performing a fan blade overhaul can be found in Pratt & Whitney JT8D Maintenance Advisory Notice No. MAN-JT8D-2-06, and the Engine Manual Chapter/Section 72-33-21, Inspection 00.

(g) For engines where the CIS since the last overhaul of the fan blades are unknown, overhaul the total set of stage 1 fan blades at the next shop visit after the effective date of this AD. Guidance on performing a fan blade overhaul can be found in Pratt & Whitney JT8D Maintenance Advisory Notice No. MAN-JT8D-2-06, and the Engine Manual Chapter/Section 72-33-21, Inspection 00.

#### Repetitive Overhaul

(h) Thereafter, overhaul the total set of stage 1 fan blades at the first shop visit after 4,000 CIS since the last total stage 1 fan blade overhaul. Guidance on performing a fan blade overhaul can be found in Pratt & Whitney JT8D Maintenance Advisory Notice No. MAN-JT8D-2-06, and the Engine Manual Chapter/Section 72-33-21, Inspection 00.

#### Definitions

(i) For the purpose of this AD, a shop visit is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges (lettered flanges), except that the separation of engine flanges solely for the purposes of transporting the engine without subsequent engine maintenance does not constitute an engine shop visit.

#### Alternative Methods of Compliance

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

#### Related Information

(k) Contact James Gray, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [james.e.gray@faa.gov](mailto:james.e.gray@faa.gov);

telephone (781) 238-7742; fax (781) 238-7199, for more information about this AD.

(l) Pratt & Whitney JT8D Maintenance Advisory Notice No. MAN-JT8D-2-06, dated November 20, 2006, pertains to the subject of this AD. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-7700; fax (860) 565-1605, for a copy of this service information.

#### Material Incorporated by Reference

(m) None.

Issued in Burlington, Massachusetts, on October 1, 2010.

**Peter A. White,**

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

[FR Doc. 2010-25391 Filed 10-7-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2010-0917]

RIN 1625-AA00

### Safety Zone; Fireworks for USS GRAVELY Commissioning Ceremony, Cape Fear River, Wilmington, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of Cape Fear River in Wilmington, NC in support of the Fireworks for the USS GRAVELY Commissioning Ceremony. This action is necessary to protect the life and property of the maritime public and spectators from the hazards posed by aerial fireworks displays. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port.

**DATES:** This rule is effective from 9 p.m. to 10 p.m. November 19, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0917 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0917 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail BOSN3 Joseph Edge, Waterways Management Division, Coast Guard; telephone 252-247-4525, e-mail *Joseph.M.Edge@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters.

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**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft, and other vessels transiting the event area.

##### **Basis and Purpose**

On November 19, 2010, the USS GRAVELY Commissioning Committee will sponsor a fireworks display on the western shore of the Cape Fear River at Battleship Park. The fireworks debris fallout area will extend over the navigable waters of Cape Fear River. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, including accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, vessel traffic will be temporarily restricted from transiting within fireworks launch and fallout area.

##### **Discussion of Rule**

The Coast Guard is establishing a safety zone on the navigable waters of Cape Fear River within an area bound

by a line drawn from the following points: latitude 34°13'54" N, longitude 077°57'06" W; thence northeast to latitude 34°13'57" N, longitude 077°57'05" W; thence north to latitude 34°14'11" N, longitude 077°57'07" W; thence northwest to latitude 34°14'22" N, longitude 077°57'19" W; thence west to latitude 34°14'22" N, longitude 077°57'06" W; thence southeast to latitude 34°14'07" N, longitude 077°57'00" W; thence south to latitude 34°13'54" N, longitude 077°56'58" W; thence to the point of origin, located approximately 500 yards north of Cape Fear Memorial Bridge. This safety zone will be established in the vicinity of Wilmington, NC from 9 p.m. to 10 p.m. on November 19, 2010. In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port, or his or her representative, no person or vessel may enter or remain in the regulated area.

##### **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. Although this regulation restricts access to a small segment of the Cape Fear River, the effect of this rule will not be significant because: (i) the safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

##### **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 rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the specified portion of Cape Fear River from 9 p.m. to 10 p.m. on November 19, 2010. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) This rule will be enforced for only one hour on November 19, 2010; (2) Vessel traffic will be able to navigate safely around the safety zone without significant impact to their transit plans; and (3) Before the effective period begins, we will issue maritime advisories.

##### **Assistance for Small Entities**

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

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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

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

### Civil Justice Reform

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

### Protection of Children

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

### Indian Tribal Governments

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

### Energy Effects

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

require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

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

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

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a safety zone for a fireworks display launch site and fallout area and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays.

### 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 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0917 to read as follows:

### § 165.T05–0917 Safety Zone: Fireworks for USS GRAVELY Commissioning Ceremony, Cape Fear River, Wilmington, NC.

(a) *Regulated area.* The following area is a safety zone: specified waters of the Captain of the Port, Sector North Carolina, as defined in 33 CFR 3.25–20, on the navigable waters of Cape Fear River within an area bound by a line drawn from the following points: Latitude 34°13'54" N, longitude 077°57'06" W; thence northeast to latitude 34°13'57" N, longitude 077°57'05" W; thence north to latitude 34°14'11" N, longitude 077°57'07" W; thence northwest to latitude 34°14'22" N, longitude 077°57'19" W; thence west to latitude 34°14'22" N, longitude 077°57'06" W; thence southeast to latitude 34°14'07" N, longitude 077°57'00" W; thence south to latitude 34°13'54" N, longitude 077°56'58" W; thence to the point of origin, located approximately 500 yards north of Cape Fear Memorial Bridge.

(b) *Definition.* For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his or her behalf.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Sector North Carolina or his or her designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Sector North Carolina can be reached through the Sector Duty Officer at Sector North Carolina in Atlantic Beach, North Carolina at telephone number (252) 247–4570.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement period.* This regulation will be in effect from 9 p.m. to 10 p.m. on November 19, 2010.

Dated: September 23, 2010.

**A. Popiel,**

*Captain, U.S. Coast Guard, Captain of the Sector North Carolina.*

[FR Doc. 2010-25380 Filed 10-7-10; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-0604-201046; FRL-9212-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Atlanta, GA; Notice of Completeness Determination for the Purpose of Stopping Sanctions Clock

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

**ACTION:** Notice of Letter to Governor Regarding Completeness and Stopping of Sanctions Clock.

**SUMMARY:** EPA is now giving notice of an action that EPA has already taken to find a State Implementation Plan (SIP) revision complete and stop the sanctions clocks associated with the Atlanta, Georgia, 1997 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) nonattainment area (hereafter referred to as the "Atlanta Area"). Pursuant to the Clean Air Act (CAA) and its implementing regulations, EPA has made an affirmative determination of completeness for the attainment demonstration, reasonably available control measures and reasonably available control technology, annual emissions reductions to ensure reasonable further progress, and contingency measures (hereafter referred to as "nonattainment area submittals") submitted by the State of Georgia for the Atlanta Area. On September 3, 2010, a letter announcing this determination was sent to the Governor of Georgia, effectively stopping the sanctions clocks started on November 27, 2009, by "a finding of failure to submit" the 1997 PM<sub>2.5</sub> nonattainment submittals for the Atlanta Area. Today's notice is simply an announcement of a determination that EPA has already made.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-0604. All documents in the docket are listed on the [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joel Huey or Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9104. Mr. Huey can also be reached via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov). Ms. Waterson may be reached by phone at (404) 562-9061 or via electronic mail at [waterson.sara@epa.gov](mailto:watson.sara@epa.gov).

**SUPPLEMENTARY INFORMATION:** Effective April 5, 2005, the Atlanta Area was designated nonattainment for the 1997 PM<sub>2.5</sub> NAAQS. The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton Counties and portions of Heard and Putnam Counties. For the 1997 PM<sub>2.5</sub> NAAQS, the State of Georgia was required to submit nonattainment area submittals by April 5, 2008. On November 27, 2009, EPA published a finding of failure to submit final rulemaking for the required SIPs (74 FR 62251).

On July 6, 2010, Georgia submitted all components for the nonattainment area submittals for the Atlanta Area. EPA has done a completeness review, in accordance with Section 2.0 "Criteria" of Appendix V of 40 CFR part 51—Criteria for Determining the Completeness of Plan Submissions, to ensure that the State has submitted all of the required information for the SIP submission.

As explained in the letter sent by EPA to the Governor of Georgia, on September 3, 2010, EPA has determined that the State has corrected the

deficiency identified in EPA's promulgated finding of failure to submit the required nonattainment area SIP submittals for the Atlanta Area. Specifically, EPA has determined that Georgia has submitted complete SIP submittals for the Atlanta Area to meet the CAA requirement for a nonattainment area under the 1997 PM<sub>2.5</sub> NAAQS. EPA will make a determination on the approvability of the nonattainment area submittals for the Atlanta Area in a separate action. Today's announcement only relates to a completeness determination for the nonattainment area submittals for the Atlanta Area, and is separate from EPA's determination of approvability of these submittals. Today's action is simply a notice of a determination that EPA already made through correspondence with the Governor of Georgia.

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

Dated: September 28, 2010.

**Gwendolyn Keyes Fleming,**  
*Regional Administrator, Region 4.*

[FR Doc. 2010-25465 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 156

[EPA-HQ-OPP-2005-0327; FRL-8848-8]  
RIN 2070-AJ74

#### Pesticide Management and Disposal; Standards for Pesticide Containers and Containment; Change to Labeling Compliance Date

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending the pesticide container and containment regulations to provide an 8-month extension of the labeling compliance date from December 16, 2010 to August 16, 2011. This change is being made to provide additional time for pesticide registrants to revise labels to bring them into compliance with the regulations and for EPA and states to review and approve the revised labels.

**DATES:** This final rule is effective December 7, 2010.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0327. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available,

*e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Nancy Fitz, Field and External Affairs Division (FEAD) (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7385; fax number: (703) 308-2962; e-mail address: [fitz.nancy@epa.gov](mailto:fitz.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Does this action apply to me?**

You may be potentially affected by this action if you are a pesticide formulator. Potentially affected entities may include, but are not limited to:

- Pesticide formulators (NAICS code 32532), *e.g.*, establishments that formulate and prepare insecticides, fungicides, herbicides, antimicrobials or other pesticides from technical chemicals or concentrates produced by pesticide manufacturing establishments.

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

**II. Background**

On August 16, 2006, EPA promulgated a final rule titled "Pesticide Management and Disposal; Standards for Pesticide Containers and Containment" (71 FR 47330) (container and containment rule), establishing 40 CFR part 165 and amending 40 CFR part 156. The container and containment rule established regulations for the safe

storage and disposal of pesticides to reduce the likelihood of unreasonable adverse effects on human health and the environment. The container and containment regulations include requirements for pesticide container design; procedures, standards, and label language to facilitate removal of pesticides from containers prior to their being reused, recycled, or discarded; and requirements for containment of stationary pesticide containers and procedures for container refilling operations. The 2006 rule required that all pesticide products distributed or sold by a registrant as of August 16, 2009, bear labels that comply with the rule's label language requirements (40 CFR 156.159). On October 29, 2008, EPA promulgated a final rule that made various amendments to the container and containment rule, including extending the original labeling compliance date from August 16, 2009 to August 16, 2010.

On June 15, 2010 (75 FR 33705), EPA promulgated a final rule that extended the labeling compliance date from August 16, 2010 to December 16, 2010 to avoid the temporary removal of a significant number of pesticides from the market while a 1-year extension proposal moves through the rulemaking process and while pesticide registrants work to update pesticide labels to comply with the labeling requirements in the container and containment regulations and EPA and states work to review and approve those revised labels.

Also on June 15, 2010 (75 FR 33744), EPA published a proposed rule to provide a 1-year extension of the labeling compliance date from August 16, 2010 to August 16, 2011 to address concerns raised by stakeholders and as a result of further Agency consideration. The public comment period for this proposed rule closed on July 15, 2010. EPA received five comments from trade associations and a pesticide registrant. Four of the comments supported the proposed 1-year extension while one comment, submitted by a trade association, supported a longer extension of 18 months to 2 years.

**III. What is the Agency's authority for taking this action?**

These final regulations are issued pursuant to the authority given the Administrator of EPA in sections 2 through 34 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136-136y. Sections 19(e) and (f) of FIFRA, 7 U.S.C. 136a(e) and (f), grant EPA broad authority to establish standards and procedures to assure the safe use, reuse, storage, and disposal of pesticide containers. FIFRA

section 19(e) requires EPA to promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides. FIFRA section 19(f) requires EPA to promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal. FIFRA section 25(a), 7 U.S.C. 136w(a), authorizes EPA to issue regulations to carry out provisions of FIFRA.

**IV. What action is the Agency taking?**

EPA is amending the pesticide container and containment regulations to provide an 8-month extension of the labeling compliance date (40 CFR 156.159) from December 16, 2010 to August 16, 2011. This change is being made to provide additional time for pesticide registrants to revise labels to bring them into compliance with the regulations and for EPA and states to review and approve the revised labels.

As discussed in the June 15, 2010 proposed rule, EPA concluded that there was not sufficient time to change all labels by August 2010 because of several factors, including:

1. More antimicrobial products labels than expected require alternative rinsing instructions, so the label amendments cannot be made by notification and require more in depth reviews by EPA;
2. EPA's position on the appropriate container-related statements (particularly rinsing and treatment of rinsate) for certain pesticides has changed over time as a result of experience with product-by-product label reviews; and
3. The length of time for states to review and approve labels is understood to be increasing due to the furlough days for staff in some states and staffing reductions due to budget shortfalls in others.

Since registrants can decide which registered products they wish to market at any given time, the Agency does not have a precise count of the total number of label changes that ultimately will be submitted to EPA for review. However, based upon a review of Agency actions through May 2010 and discussions with registrants, EPA estimates that the majority of label changes have already been submitted and approved. On the other hand, EPA estimates that there were at least 1,000, and potentially several thousand, remaining pesticide product labels that EPA still needed to review. Even taking into account the applications that have already been submitted, there is not enough time for the necessary label changes to be approved by EPA, then submitted to and approved by the states, printed, and

applied to all products that will be released for shipment after August 16, 2010.

Because EPA contributed to the large number of outstanding label changes, EPA is extending the compliance date in 40 CFR 156.159 by a total of 1 year, so that pesticide products released for shipment by a registrant after August 16, 2011 would have to bear a label that complies with the container requirements. EPA continues to believe that one additional year will provide enough time for EPA and the states to review the label changes and for registrants to incorporate the changes into their labels, provided that the outstanding applications were submitted in a timely fashion. Beginning in April 2010 and repeated in the June 15, 2010 **Federal Register** notices, EPA encouraged pesticide registrants to submit applications for label changes for their products prior to the previous deadline of August 16, 2010. EPA said that the Agency would give priority to applications submitted prior to August 16, 2010 and that applications submitted after August 16, 2010 would be processed on a non-priority basis only after all applications submitted prior to that date have been processed.

EPA disagrees with the commenter who argued for an 18-month to 2-year extension. This commenter said a longer extension is necessary to avoid an interruption in the supply of antimicrobial products because of “the need for these products for public health and the industrial economy, the need for particularized language for antimicrobial pesticides necessitating amendment instead of notification, the potential for multiple review cycles, the significant workload facing the EPA, and state pesticide registration agencies.”

Based on an evaluation of the resources and time it would take for EPA to undertake a concerted effort to complete the review of these remaining labels and discussions with State regulatory agencies who estimated a range of 3 to 6 months for them to review and approve the label revisions, EPA continues to believe that label changes that were submitted by August 16, 2010 will be reviewed by EPA and states in sufficient time to allow the registrants to make the necessary changes in their labels in time to comply with the revised compliance date of August 16, 2011. The number of pesticide product labels submitted by the August 16, 2010 deadline is comparable to the average number of label changes that have been reviewed, approved and changed over each of the

past few years. Therefore, EPA believes that EPA, states and registrants can readily accomplish the steps necessary in order for the affected products to be in compliance with the pesticide container and containment regulations by August 16, 2011.

EPA believes that a longer extension is unjustified because registrants have had a reasonable amount of time to prepare and submit their label modification requests. The rule was published over 4 years ago and EPA has already extended the deadline by 1 year and 4 months. The prior extension was based on EPA’s concern that without an extension, the prior compliance date of August 16, 2010 could temporarily remove from the market a significant number of pesticides important to the protection of public health and the nation’s food supply, without comparable benefits to public health or the environment. Extending the compliance date to August 2011 was expected to allow time for the labels of the vast majority of these products to work through the review and revision process so there should not be a significant number of non-compliant products by August 16, 2011. While the number of non-compliant products is still significant, the number of applications submitted and processed to date gives EPA confidence that users will have adequate access to compliant products by August 16, 2011.

EPA continues to believe that the pesticide container labeling requirements serve important roles in the management of pesticide risks, as explained in the August 16, 2006, pesticide container and containment final rule (71 FR 47330). Absent compelling competing public interests, EPA believes that it is essential for the labels to clearly identify containers as nonrefillable containers or refillable containers by August 16, 2011 when compliance is required with the refillable container and repackaging requirements. Having the label identify a container as a refillable container is essential to the successful implementation of the refillable container and repackaging regulations.

#### **V. Statutory and Executive Order Reviews**

This action only amends an existing regulation to extend the current compliance date, it does not otherwise amend or impose any other requirements. As such, this action is not subject to review by the Office of Management and Budget (OMB) as a “significant regulatory action” under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR

51735, October 4, 1993). Nor does it impose or change any information collection burden that requires additional review by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection activities contained in the regulations are already approved under OMB control number 2070–0133 (EPA ICR No. 1632). 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.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this final rule does not have a significant adverse economic impact on a substantial number of small entities. The extension of the compliance date is not expected to have any adverse economic impacts on affected entities, regardless of their size. The factual basis for the Agency’s determination is presented in the 2006 addendum to the economic analysis, a copy of which is available in the docket for this rulemaking. In general, EPA strives to minimize potential adverse impacts on small entities when developing regulations to achieve the environmental and human health protection goals of the statute and the Agency. EPA solicits comments specifically about potential small business impacts.

State, local, and tribal governments are rarely pesticide applicants or registrants, so this final rule is not expected to affect these governments. Accordingly, pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538), EPA has determined that this action is not subject to the requirements in sections 202 and 205 because it 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 for the private sector in any one year. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. For the same reasons, EPA has determined that this final rule does not have “federalism implications” as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), because it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this final rule. Nor does it have "tribal implications" as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 22951, November 9, 2000). EPA is not aware of any tribal governments which are pesticide registrants. Thus, Executive Order 13175 does not apply to this action.

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), and Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, which is not the case in this final rule.

This action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

This action does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, this action does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

## VI. FIFRA Mandated Reviews

In accordance with FIFRA section 25(a) and (d), the Agency submitted a draft of this final rule to the Committee on Agriculture in the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry in the United States Senate, the Secretary of Agriculture, and the FIFRA Scientific Advisory Panel (SAP). The SAP and the Secretary of Agriculture waived review of this final rule.

## VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 156

Environmental protection, Labeling, Pesticides and pests.

Dated: September 29, 2010.

**Lisa P. Jackson**,  
Administrator.

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

### PART 156—[AMENDED]

■ 1. The authority citation for part 156 continues to read as follows:

**Authority:** 7 U.S.C. 136 through 136y.

■ 2. Revise § 156.159 to read as follows:

#### § 156.159 Compliance date.

Any pesticide product released for shipment by a registrant after August 16, 2011 must bear a label that complies with §§ 156.10(d)(7), 156.10(f), 156.10(i)(2)(ix), 156.140, 156.144, 156.146 and 156.156.

[FR Doc. 2010-25425 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[Docket No. 100330171-0388-02]

RIN 0648-AY79

#### Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Framework

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

**ACTION:** Final rule.

**SUMMARY:** NMFS amends the framework regulations specifying procedures for implementing fishing capacity reduction programs (reduction programs) in accordance with the Magnuson-Stevens Fishery Conservation and Management (Magnuson-Stevens) Reauthorization Act of 2007. A reduction program pays harvesters in a fishery that has more vessels than capacity either to surrender

their fishing permits including relevant fishing histories for that fishery, or surrender all their fishing permits and cancel their fishing vessels' fishing endorsements by permanently withdrawing the vessel from all fisheries. The cost of the program can be paid by post-reduction harvesters, taxpayers, or others. The intent of a program is to decrease the number of harvesters in the fishery, increase the economic efficiency of harvesting, and facilitate the conservation and management of fishery resources in each fishery in which NMFS conducts a reduction program.

**DATES:** This final rule is effective November 8, 2010.

**ADDRESSES:** Copies of the Regulatory Impact Review prepared for this action may be obtained from Michael A. Sturtevant, Financial Services Division, NMFS-MB5, 1315 East-West Highway, Silver Spring, MD 20910.

Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule to Michael A. Sturtevant at the above address and also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (*Attention:* NOAA Desk Officer) or e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to (202) 395-7825.

**FOR FURTHER INFORMATION CONTACT:** Michael A. Sturtevant at 301-713-2390 or [michael.a.sturtevant@noaa.gov](mailto:michael.a.sturtevant@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This **Federal Register** document is also accessible via the Internet at <http://www.gpoaccess.gov/fr>.

## I. Statutory and Regulatory Background

Many U.S. fisheries have excess fishing capacity. Excess fishing capacity decreases earnings, complicates management, and imperils conservation. To provide for fishing capacity reduction programs, in 1996 Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by adding section 312(b)-(e) (16 U.S.C. 1861a(b)-(e)). The framework regulations to conduct these reduction programs were published as an interim final rule on May 18, 2000 (65 FR 31430) and codified as subpart L to 50 CFR part 600. To finance reduction costs, Congress amended Title XI of the Merchant Marine Act, 1936 (Title XI), by adding new sections 1111 and 1112. The Title XI provisions involving

fishing capacity reduction loans have been codified at 46 U.S.C. § 53735.

This action amends subpart L to 50 CFR part 600 to implement the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Pub. L. 109–479) amendments for requesting and conducting fishing capacity reduction programs.

## II. Magnuson-Stevens Reauthorization Act Changes

The Magnuson-Stevens Reauthorization Act requires several modifications to the framework regulations.

First, the Magnuson-Stevens Reauthorization Act contained a provision that states that, in addition to the appropriate fishery management Council or Governor of a State, a majority of permit holders in the fishery may request a buyback program. Such a program may be conducted if the Secretary determines that the program is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery. As a result of this change, NMFS is amending the definition of “Requester” and the regulations outlining the process for submission requests to allow permit holders, if they constitute a majority, to request a buyback program.

Second, the Magnuson-Stevens Reauthorization Act clarified that a permit holder relinquishes any future limited access system claims associated with the permit or vessel participating in a reduction program and that (if not scrapped) the vessel will be effectively prevented from fishing in Federal or state waters, or fishing on the high seas or in the waters of a foreign nation. The Magnuson-Stevens Reauthorization Act revised section 312(b)(2)(A) to recognize that the owner of a fishing vessel may be different from the permit holder. As a result of this change, NMFS is amending the regulations to require that, along with surrendering the permit authorizing the participation of the vessel in the fishery, for permanent revocation, both the vessel owner and the permit holder, if different from the vessel owner, relinquish any claim associated with the vessel or permit that could qualify such owner or permit holder for any present or future limited access system permit in the fishery for which the program is established or in any other fishery.

Third, the Magnuson-Stevens Reauthorization Act added Section 312(b)(5) regarding payment conditions stating that if a vessel is not scrapped,

the Secretary of Commerce (Secretary) must certify that the vessel will not be used for fishing in the waters of a foreign nation or fishing on the high seas. As a result of this change, NMFS is amending the regulations so that the Secretary must make such certification before making payment. Because each program is different, and would need to include fishery-specific information and requirements, NMFS is not proposing at this time specific details that must be included in the certification plans, but will provide the requirements for the certification process on a case-by-case basis for each reduction fishery program when the regulations for that program is published in the **Federal Register**.

Fourth, the Magnuson-Stevens Reauthorization Act also changed the approval threshold for the capacity reduction referendum. The reauthorized Act now states that a fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute “at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participate in the fishery”. Previously, a referendum was approved with a two-thirds majority of the participating voters. As a result of this amendment, NOAA amends the referendum procedure accordingly.

On June 14, 2010, NMFS published proposed regulations in the **Federal Register** (75 FR 33570) to implement the program’s industry fee system. This final rule implements the changes as originally proposed and will be effective on November 8, 2010.

## III. Summary of Comments and Responses

NMFS received four comments in response to the proposed rule. Three were from individuals and one from the U.S. Department of the Interior (DOI). DOI reviewed the proposed rule and acknowledged that because it addresses the framework process it would not have any immediate effect on National Park Service fishery resources.

*Comment 1:* The commenter expressed concern about the potential Southeast Alaska Purse Seine Salmon Buyback Program, specifically that future comment periods be open when stakeholders are available to participate.

*Response:* This action affects the framework buyback rule. Each specific buyback program undergoes a separate rulemaking process. NMFS strives to get the most public input possible. Thus, for an individual fishery program with a finite season, NMFS would attempt to avoid holding open public comment periods solely while the fleet is fishing.

*Comment 2:* The commenter expressed concern about charter boat participation in a buyback program.

*Response:* This rule implements changes to the existing buyback framework rule. The framework rule establishes parameters for developing a buyback program for commercial fisheries. It does not apply to the charter fishing industry.

*Comment 3:* The commenter expressed concern about future rule making and claimed that many of the vessels in question were built using tax payer money and implied that the government paying to scrap them was inefficient. The commenter also expressed concern about the implications of this action on small fishing entities and harbor based communities.

*Response:* NMFS notes that this rule implements changes to the existing buyback framework rule. The framework provides a process to implement fishing capacity reduction programs which remove fishing permits and may or may not remove fishing vessels. This action does not directly remove any fishing permits or vessels. Specific rulemaking for each fishery would be necessary before a program could be implemented. NMFS would consider any impacts on such fishing at that time.

*Comment 4:* The commenter expressed concern about the environmental impacts of fishing trawlers and other gear upon the ocean bottom and suggested that fishing capacity reduction programs be restricted to certain gear types.

*Response:* This action only addresses the buyback framework rule process. This comment may be appropriate and relevant to the development of a specific fishing capacity reduction program in an individual fishery and would be considered when such programs are developed.

*Comment 5:* The commenter expressed concern that fishing capacity reduction programs could increase the proliferation of fish farms which would cause negative environmental impacts.

*Response:* This action affects the framework buyback rule and will not directly impact any fishery. Each specific buyback program undergoes a separate rulemaking process and consideration of environmental impacts at that time, which may include the impacts of aquaculture.

*Comment 6:* The commenter expressed concerns that the Regulatory Flexibility Act considerations were insufficient and that small entities would be adversely affected.

Response: NMFS disagrees. The framework modifications implemented by this rule impact only the process under which fishery capacity reduction programs are created and implemented, and would not directly implement changes to specific fisheries. Each program will be individually evaluated and analyzed at the appropriate time including its impact on small businesses. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this will not have a significant economic impact on a substantial number of small entities.

IV. Summary of Revisions

NMFS revises the following sections of the regulations of subpart L to 50 CFR part 600:

- (1) Section 600.1000. This section is revised to amend the definition of "Requester" to include the majority of permit holders in a fishery.
(2) Section 600.1001(a). This section is amended to provide for authority that a majority of permit holders in the fishery may initiate a voluntary fishing capacity reduction program.
(3) Section 600.1002(c). This new provision states the Secretary may not make a fishing capacity reduction program payment with respect to a reduction vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of the U.S., a foreign nation, or on the high seas.
(4) Section 600.1009(a)(5)(ii). This section is revised to clarify title restrictions on any reduction vessel that is not scrapped.
(5) Section 600.1010(a). This section is revised to reflect the new industry fee system approval threshold to at least a majority of the permit holders in the fishery who participated in the fishery.

V. Classification

The Administrator for Fisheries, NMFS, determined that this rule is consistent with the Magnuson-Stevens Act, the Magnuson-Stevens Reauthorization Act (Pub. L. 109-479), and other applicable laws.

The revisions to the framework regulations do not propose any major new programs. The framework modifications implemented by this rule impact only the process under which fishery capacity reduction programs are created and implemented, and would not directly implement changes to specific fisheries. Therefore, the rulemaking does not lend itself to quantitative or qualitative analysis. For example, the analysis of impacts on

vessels, vessel revenues, port revenues, fish stock impacts, etc. are not possible in the absence of identifying specific fisheries and buyback program fishery components. Each individual program will be implemented through the rulemaking process in accordance with 5 U.S.C. 553, and thus, each program will be individually evaluated and appropriately analyzed under NEPA at the appropriate time. This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NOAA Administrative Order (NAO) 216-6.

The Office of Management and Budget determined that this proposal is not significant pursuant to Executive Order 12866. NMFS prepared a Regulatory Impact Review which is available upon request (see ADDRESSES).

Section 605 of the Regulatory Flexibility Act (RFA) provides that if an agency determines that a rule will not have a significant impact on a substantial number of small entities, it may certify that finding to the Small Business Administration in lieu of preparing an analysis. Although one commenter expressed concern that the RFA considerations were insufficient and small entities would be adversely affected, NMFS disagrees. The framework modifications implemented by this rule impact only the process under which fishery capacity reduction programs are created and implemented, and would not directly implement changes to specific fisheries. Each program will be individually evaluated and analyzed at the appropriate time including its impact on small businesses. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this will not have a significant economic impact on a substantial number of small entities.

This final rule does not contain any new collection of information requirements subject to the PRA. The estimates of the public reporting burden that have been previously approved by OMB, under OMB Control No. 0648-0376 remain valid. Send comments regarding the collection of information requirements contained in this final rule, including the burden hour estimates, and suggestions for reducing the burdens to NMFS (see ADDRESSES) and to OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork

Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing capacity reduction, Fishing permits, Fishing vessels, Intergovernmental relations, Loan programs—business, Reporting and recordkeeping requirements.

Dated: October 5, 2010.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for 50 CFR part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 et seq.

2. In § 600.1000, the definition of "Requester" is revised to read as follows:

§ 600.1000 Definitions.

\* \* \* \* \*

Requester means a Council for a fishery identified in § 600.1001(c) or a state governor for a fishery identified in § 600.1001(d), or a majority of permit holders in the fishery.

\* \* \* \* \*

3. In § 600.1001, paragraph (a) is revised to read as follows:

§ 600.1001 Requests.

(a) A Council, the Governor of a State under whose authority a proposed reduction fishery is subject, or a majority of permit holders in the fishery may request that NMFS conduct a program in that fishery. Each request shall be in writing. Each request shall satisfy the requirements of § 600.1003 or § 600.1005, as applicable, and enable NMFS to make the determinations required by § 600.1004 or § 600.1006, as applicable.

\* \* \* \* \*

4. In § 600.1002, paragraph (c) is added to read as follows:

§ 600.1002 General requirements.

\* \* \* \* \*

(c) The Secretary may not make a fishing capacity reduction program payment with respect to a reduction vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of the U.S., a foreign nation, or on the high seas.

■ 5. In § 600.1009, paragraph (a)(5)(ii) is revised to read as follows:

**§ 600.1009 Bids.**

- (a) \* \* \*
- (5) \* \* \*

(ii) Where the program also involves the withdrawal of reduction vessels from fishing:

(A) Title restrictions imposed by the U.S. Coast Guard on any reduction vessel that is Federally documented to forever prohibit and effectively prevent any future use of the reduction vessel for fishing:

- (1) In any area subject to the jurisdiction of the United States, or any state, territory, commonwealth, or possession of the United States, or
- (2) On the high seas, or

(3) In the waters of a foreign nation; or

(B) Scrapping of all reduction vessels involved in a fishing capacity reduction program, unless the reduction program vessel has been certified by the Secretary, and the requirements established under § 600.1002(c) are met. Where reduction vessel scrapping is involved and the reduction vessel's owner does not comply with the owner's obligation under the reduction contract to scrap the reduction vessel, the Secretary may take such measures as necessary to cause the reduction vessel's prompt scrapping. The scrapping will be at the reduction vessel owner's risk and expense. Upon completion of scrapping, NMFS will take such action

as may be necessary to recover from the reduction vessel owner any cost, damages, or other expense NMFS incurred in the scrapping of the reduction vessel.

\* \* \* \* \*

■ 6. In § 600.1010 paragraph (a) is revised to read as follows:

**§ 600.1010 Referenda.**

(a) *Referendum success.* A referendum is successful if at least a majority of the permit holders in the fishery who participate in the fishery cast ballots in favor of an industry fee system.

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[FR Doc. 2010-25437 Filed 10-7-10; 8:45 am]

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# Proposed Rules

Federal Register

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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.

## NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 32, 33, 34, 35, 36, 37, 39, 51, 71, and 73

[NRC-2008-0120]

RIN 3150-A112

### Physical Protection of Byproduct Material; Extension of Comment Period

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule: Extension of comment period.

**SUMMARY:** On June 15, 2010, the U.S. Nuclear Regulatory Commission (NRC) published for public comment a proposed rule to establish security requirements for the use and transport of Category 1 and Category 2 quantities of radioactive material. The public comment period for this proposed rule was to have expired on October 13, 2010. The NRC received several requests to extend the comment period to January 18, 2011. Due to the size and complexity of the proposed rule and the associated draft implementation guidance, the NRC has decided to extend the comment period until January 18, 2011.

**DATES:** The comment period has been extended and now expires on January 18, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC-2008-0120 in the subject line of your comments. For instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

*Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2008-0120. Address questions

about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

*E-mail comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.

*Hand-deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone 301-415-1677)

*Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

#### FOR FURTHER INFORMATION CONTACT:

Merri Horn, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 415-8126, e-mail: [Merri.Horn@nrc.gov](mailto:Merri.Horn@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this proposed rule using the following methods:

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [PDR.resource@nrc.gov](mailto:PDR.resource@nrc.gov).

*Federal Rulemaking Web site:* Public comments and supporting materials related to this proposed rule can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2008-0120.

#### Discussion

The NRC published a proposed rule that would place the security requirements for use of Category 1 and Category 2 quantities of radioactive material into a new Part 37 of Title 10 of the Code of Federal Regulations. Category 1 and Category 2 thresholds are based on the thresholds established for Category 1 and Category 2 in the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources. The NRC considers Category 1 and Category 2 quantities of radioactive material to be risk-significant and, therefore, these materials warrant additional protection. The objective of the proposed rule is to ensure that effective security measures are in place for the protection of Category 1 and Category 2 quantities of radioactive material against the possibility of misuse of the radioactive material for malevolent purposes.

The proposed rule was published on June 15, 2010 (75 FR 33902) and the public comment period was to have expired October 13, 2010. The NRC received several requests to extend the comment period to January 18, 2011. Due to the size and complexity of the proposed rule and the associated draft implementation guidance, the NRC has decided to extend the comment period until January 18, 2011.

Dated at Rockville, Maryland, this 4th day of October, 2010.

For the Nuclear Regulatory Commission.  
**Annette Vietti-Cook,**  
*Secretary of the Commission.*  
 [FR Doc. 2010-25397 Filed 10-7-10; 8:45 am]  
**BILLING CODE 7590-01-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0958; Directorate Identifier 2010-NM-188-AD]

RIN 2120-AA64

#### **Airworthiness Directives; McDonnell Douglas Corporation Model DC-9-14, DC-9-15, and DC-9-15F Airplanes; and DC-9-20, DC-9-30, DC-9-40, and DC-9-50 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD would require installing new in-line fuses for the fuel level float switch and new in-line fuses for the pressure switch, as applicable, and changing the wiring. The proposed actions would affect the left and right wing forward spars, center wing forward spar, forward auxiliary fuel tank, and aft auxiliary fuel tank, as applicable. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. We are proposing 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:** We must receive comments on this proposed AD by November 22, 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:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing

Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800-0019, Long Beach, California 90846-0001; telephone 206-544-5000, extension 2; fax 206-766-5683; e-mail [dse.boecom@boeing.com](mailto:dse.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

#### **Examining the AD Docket**

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

**FOR FURTHER INFORMATION CONTACT:** Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5262; fax (562) 627-5210, e-mail: [Samuel.Lee@faa.gov](mailto:Samuel.Lee@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2010-0958; Directorate Identifier 2010-NM-188-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 FAA has examined the underlying safety issues involved in fuel tank explosions on several large

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

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

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

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

An investigation conducted by the airplane manufacturer has revealed that fuel level float switch wires located on the left and right wing forward spars, the center tank forward spar, and the forward and aft auxiliary fuel tanks, and pressure switch wires located on the

forward and aft auxiliary fuel tanks, are routed in the same bundles as power wires. If a short circuit between a fuel level float or pressure switch wire and a power wire occurs, an over-current can cause excessive temperature in the fuel level float or pressure switch wire, resulting in damage, and could become a potential ignition source. Adding an in-line fuse as a self-contained component in each fuel level float and pressure switch circuit will minimize the possibility of excessive temperatures in the fuel level float or pressure switch wires. If a short circuit between a fuel level float or pressure switch and a power wire occurs, the result could be a fuel tank explosion and consequent loss of the airplane.

**Relevant Service Information**

We reviewed Boeing Service Bulletin DC9–28–217, Revision 1, dated August 12, 2010. The service bulletin describes procedures for installing the in-line fuses of the fuel level float switch, in-line fuses of the pressure switch, and changing the wiring, as applicable, on the left and right wing forward spars, center wing forward spar, forward auxiliary fuel tank, and aft auxiliary fuel tank, as applicable. The service bulletin also describes procedures for changing certain wiring.

**FAA’s Determination**

We are proposing this AD because we evaluated all the relevant information

and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously.

**Costs of Compliance**

We estimate that this proposed AD will affect 275 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation .....	Up to 17 work-hours × \$85 per hour = Up to \$1,445 <sup>1</sup> .	Between \$289 and \$1,449 <sup>1</sup> .	Between \$1,734 and \$2,894 <sup>1</sup> .	Between \$476,850 and \$795,850 <sup>1</sup> .

<sup>1</sup> Depending on airplane group identified in Boeing Service Bulletin DC9–28–217, Revision 1, dated August 12, 2010.

**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),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) 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.

**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 airworthiness directive (AD):

**McDonnell Douglas Corporation:** Docket No. FAA–2010–0958; Directorate Identifier 2010–NM–188–AD.

**Comments Due Date**

(a) We must receive comments by November 22, 2010.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to McDonnell Douglas Corporation Model DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A), DC–9–32F (C9–B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes, certificated in any category; as identified in Boeing Service Bulletin DC9–28–217, Revision 1, dated August 12, 2010.

**Subject**

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28: Fuel.

**Unsafe Condition**

(e) This AD was prompted by 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.

**Compliance**

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

**Installation**

(g) Within 60 months after the effective date of this AD: Install new in-line fuses for the fuel level float switch and new in-line fuses for the pressure switch, as applicable; and change the wiring; on the left and right wing forward spars, center wing forward

spar, forward auxiliary fuel tank, and aft auxiliary fuel tank, as applicable; in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9–28–217, Revision 1, dated August 12, 2010.

#### Credit for Actions Accomplished in Accordance With Previous Service Information

(h) Actions done before the effective date of this AD in accordance with Boeing Service Bulletin DC9–28–217, dated December 1, 2009, are acceptable for compliance with the requirements of paragraph (g) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your Principal Maintenance Inspector or Principal Avionics Inspector, as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

#### Related Information

(j) For more information about this AD, contact Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: (562) 627–5262; fax: (562) 627–5210; e-mail: [Samuel.Lee@faa.gov](mailto:Samuel.Lee@faa.gov).

(k) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail [dse.boecom@boeing.com](mailto:dse.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, the FAA, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on October 1, 2010.

#### Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–25374 Filed 10–7–10; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2009–0113; Directorate Identifier 2008–NE–25–AD]

RIN 2120–AA64

#### Airworthiness Directives; Hamilton Sundstrand Propellers Model 247F Propellers

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** This supplemental NPRM revises an earlier proposed airworthiness directive (AD) applicable to Hamilton Sundstrand Propellers model 247F propeller assemblies with certain part number (P/N) and serial number (S/N) blades. That proposed AD would require removing affected propeller blades from service. That proposed AD resulted from reports of blades with corrosion pits in the tulip area of the blades. This supplemental NPRM revises the proposed AD to remove certain propeller S/Ns from the applicability requirement, and to add additional propeller S/Ns to the applicability requirement. This proposed AD results from the manufacturer's latest service information containing propeller S/Ns that were not specified in the proposed AD. We are proposing this AD to prevent cracks from developing in the tulip area of the blade, which could result in separation of the blade and possible loss of airplane control.

**DATES:** We must receive any comments on this proposed AD by December 7, 2010.

**ADDRESSES:** You can get the service information identified in this AD from Hamilton Sundstrand Propeller Technical Team, One Hamilton Road, Mail Stop 1–3–AB43, Windsor Locks, CT 06096–1010; fax (860) 654–5107.

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:** Michael Schwetz, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [michael.schwetz@faa.gov](mailto:michael.schwetz@faa.gov); telephone (781) 238–7761; fax (781) 238–7170.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Hamilton Sundstrand Propellers model 247F propeller assemblies with certain P/N and S/N blades. We published the proposed AD in the **Federal Register** on February 20, 2009 (74 FR 7833). That action proposed to require removing affected propeller blades from service.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2009–0113; Directorate Identifier 2008–NE–25–AD” in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

##### Examining the AD Docket

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

##### Discussion

On February 11, 2009, we proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to

Hamilton Sundstrand Propellers model 247F propeller assemblies with blades, P/N 817370-1, S/Ns FR2018, FR2083, FR2103, FR2108, FR2109, FR2111, FR2123, FR2178, FR2183, FR2187, FR2262, FR2276 through FR2279, FR2303, and FR2389. We published the proposed AD in the **Federal Register** on February 20, 2009 (74 FR 7833). That action proposed to require removing affected propeller blades from service.

Since we issued the proposed AD, Hamilton Sundstrand informed us that they incorrectly listed blade S/N FR2398 as S/N FR2389. They also informed us that the 247F propeller blades, P/N 817370-1, S/Ns FR2449 to FR2958 inclusive, FR20010710 to FR20010722 inclusive, and FR20010723RT to FR20020127RT inclusive, manufactured since January 1999, might also have damage to the corrosion protection on the blade tulips. Those blades also require complying with Service Bulletin (SB) 247F-61-54, Revision 1, dated January 12, 2004.

#### Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

#### Changed Applicability of This Proposed AD

We added blade S/Ns FR2398, FR2449 to FR2958 inclusive, FR20010710 to FR20010722 inclusive, and FR20010723RT to FR20020127RT inclusive to the applicability of the proposed AD.

We removed blade S/Ns FR2083, FR2178, FR2303, and FR2389 from the applicability of the proposed AD. Hamilton Sundstrand informed us that they have reworked those blades to SB 247F-61-54, Revision 1, dated January 12, 2004.

#### Conclusion

We have carefully reviewed the available data, and determined that air safety and the public interest require reopening the comment period for the NPRM with the changes described previously.

#### FAA's Determination and Requirements of the Supplemental NPRM

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require removing certain propeller assemblies before December 31, 2010.

#### Costs of Compliance

We estimate that this AD will affect 10 propellers installed on airplanes of U.S. registry. We also estimate that it will take about 16 work-hours per propeller to perform the required actions, and that the average labor rate is \$85 per work-hour. Required parts will cost about \$50 per propeller. Based on these figures, we estimate the total cost of this AD to U.S. operators to be \$14,100.

#### 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, Safety.

#### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Hamilton Sundstrand Corporation:** Docket No. FAA-2009-0113; Directorate Identifier 2008-NE-25-AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by December 7, 2010.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Hamilton Sundstrand model 247F series propellers with blades part number (P/N) 817370-1, serial numbers (S/Ns) FR2018, FR2103, FR2108, FR2109, FR2111, FR2123, FR2183, FR2187, FR2262, FR2276 through FR2279 inclusive, FR 2398, FR2449 to FR2958 inclusive, FR20010710 to FR20010722 inclusive, and FR20010723RT to FR20020127RT inclusive, installed. These propellers are installed on, but not limited to, ATR-GIE Avions de Transport Regional ATR72-210 and ATR72-210E airplanes.

#### Unsafe Condition

(d) This AD results from reports of blades with corrosion pits in the tulip area of the blades. We are issuing this AD to prevent cracks from developing in the tulip area of the blade, which could result in separation of the blade and possible loss of airplane control.

#### 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.

#### Removing Blades P/N 817370-1

(f) Remove from service, blades P/N 817370-1, S/Ns FR2018, FR2103, FR2108, FR2109, FR2111, FR2123, FR2183, FR2187, FR2262, and FR2276 through FR2279, and FR2398 within 30 days after the effective date of this AD.

(g) Remove from service, blades P/N 817370-1, S/Ns FR2449 to FR2958 inclusive, FR20010710 to FR20010722 inclusive, and FR20010723RT to FR20020127RT inclusive, before December 31, 2010.

**Alternative Methods of Compliance**

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

**Related Information**

(i) Contact Michael Schwetz, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [michael.schwetz@faa.gov](mailto:michael.schwetz@faa.gov); telephone (781) 238-7761; fax (781) 238-7170, for more information about this AD.

(j) Hamilton Sundstrand Service Bulletin 247F-61-54, Revision 1, dated January 12, 2004, pertains to the subject of this AD. Contact Hamilton Sundstrand Propeller Technical Team, One Hamilton Road, Mail Stop 1-3-AB43, Windsor Locks, CT 06096-1010; fax (860) 654-5107, for a copy of this service information.

Issued in Burlington, Massachusetts, on October 4, 2010.

**Diane S. Romanosky,**

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Part 203**

[Docket No. FR-5156-P-01]

RIN 2502 AI58

**Federal Housing Administration (FHA) Single Family Lender Insurance Process: Eligibility, Indemnification, and Termination**

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

**ACTION:** Proposed rule.

**SUMMARY:** Through this proposed rule, HUD continues its efforts to improve and expand the risk management activities of the Federal Housing Administration (FHA). The proposed regulatory changes will update and enhance the Lender Insurance process through which the majority of FHA-insured mortgages are endorsed for insurance. Most significantly, the proposed rule would provide additional guidance on HUD's regulations implementing the statutory requirements regarding mortgagee indemnification to HUD of insurance claims in the case of fraud, misrepresentation, or noncompliance with applicable loan origination requirements. The proposed rule also provides that mortgagees must continually maintain the acceptable

claim and default rate required for eligibility to initially be delegated Lender Insurance authority, in order to retain such authority. In addition, this proposed rule also provides that HUD will review Lender Insurance mortgagee performance on a continual basis. HUD also proposes to revise the methodology for determining acceptable claim and default rates, to more accurately reflect mortgagee performance, and to streamline the approval process for Lender Insurance mortgagees that have undergone a corporate restructuring. The Department has also taken the opportunity afforded by this proposed rule to make two technical corrections to the regulations and to solicit public comment on whether FHA mortgagees should be required to submit mortgage loan case binders to HUD electronically.

**DATES:** *Comment Due Date:* December 7, 2010.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

**1. Submission of Comments by Mail.**

Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0001.

**2. Electronic Submission of Comments.**

Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. No *Facsimile Comments*. Facsimile (FAX) comments are not acceptable.

**Public Inspection of Public Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Mark Ross, Acting Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9278, Washington, DC 20410-8000; telephone number 202-708-2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Federal Housing Administration (FHA) was established by Congress in 1934 to improve nationwide housing standards, to provide employment and stimulate industry, to improve conditions with respect to home mortgage financing, to prevent speculative excesses in new mortgage investment, and to eliminate the necessity for costly second mortgage financing. FHA-insured single family mortgages are originated and underwritten through the Direct Endorsement process. A majority of FHA-insured mortgages that are originated under the Direct Endorsement process are endorsed for insurance by mortgage lenders through a second process, the Lender Insurance process.

The Direct Endorsement and Lender Insurance processes are not separate programs; rather, they are the mechanisms that enable FHA-approved lenders to consider single family mortgage applications without first submitting paperwork to HUD. The Lender Insurance process is authorized under section 256 of the National Housing Act (12 U.S.C. 1715z-21). The HUD regulations that presently govern the Direct Endorsement and Lender

Insurance processes are codified at 24 CFR part 203 (entitled Single Family Mortgage Insurance).

The Direct Endorsement process is described in § 203.5 and is available to mortgagees who meet the requirements set forth in § 203.3. Under Direct Endorsement, the mortgagee determines that the proposed mortgage is eligible for insurance under applicable regulations, and submits the required documents to FHA in accordance with § 203.255. The Direct Endorsement mortgagee's performance is subject to pre-endorsement and post-endorsement review by the Secretary.

Direct Endorsement mortgagees that meet the requirements of § 203.4 may be approved for Lender Insurance, as described in § 203.6. Under the Lender Insurance process, a mortgagee conducts its own pre-insurance review and insures the mortgage without a pre-endorsement review by HUD. In order to be eligible to participate in the FHA single family programs as a Lender Insurance mortgagee, an FHA mortgage lender must be an unconditionally approved Direct Endorsement mortgagee that is high performing—i.e., for at least 2 years prior to its application for Lender Insurance authority, the mortgagee must have had a claim and default record acceptable to HUD.

## II. This Proposed Rule

Through this proposed rule, HUD continues its efforts to improve and expand the risk management activities of FHA. The proposed regulatory changes will update and enhance the Lender Insurance process. Most significantly, the proposed rule would revise HUD's regulations implementing the statutory requirements regarding lender indemnification to HUD of insurance claims in the case of fraud, misrepresentation, or noncompliance with applicable loan origination requirements. The proposed rule will also provide that mortgagees, in order to retain their Lender Insurance authority, must continually maintain the acceptable claim and default rate required of them when they were initially delegated such authority. In addition, this proposed rule provides that HUD will review Lender Insurance mortgagee performance on a continual basis. HUD also proposes to revise the methodology for determining acceptable claim and default rates to more accurately reflect mortgagee performance, and to streamline the approval process for Lender Insurance mortgagees that have undergone a corporate restructuring. The Department has also taken the opportunity afforded

by this proposed rule to make two technical corrections to the regulations.

The proposed regulatory changes are as follows:

1. *Lender indemnification for insurance claims.* Under section 256(c) of the National Housing Act (12 U.S.C. 1715z–21(c)), an FHA-approved Lender Insurance mortgagee may be required to indemnify HUD for the loss if the mortgage loan was “not originated in compliance with the requirements established by the Secretary, and the Secretary pays an insurance claim \* \* \* within a reasonable period specified by the Secretary.” HUD may also require indemnification at any time “if fraud or misrepresentation was involved in connection with origination” of the mortgage loan. FHA may impose indemnifications, irrespective of whether the noncompliance, fraud, or misrepresentation caused the mortgage default. Currently, the section 256 statutory indemnification requirement is limited to mortgagees with Lender Insurance authority. On January 20, 2010, the Department announced that it would seek changes to section 256 of the National Housing Act, to apply the indemnification provisions to all Direct Endorsement lenders.<sup>1</sup>

The section 256 statutory indemnification requirements are currently codified at § 203.255(f)(4). HUD proposes to create a new § 203.255(g) that would provide additional guidance on the statutory requirements of section 256.

As discussed, the section 256 indemnification requirements are applicable to claims paid in connection to a mortgage that was not “originated” in accordance with FHA requirements. For purposes of § 203.255(f), this proposed rule would define the term “origination” as meaning “the process of creating a mortgage, starting with the taking of the initial application, continuing with the processing and underwriting, and ending with the mortgagee endorsing the mortgage note for FHA mortgage insurance.” The proposed definition of “origination” would apply only to indemnifications for mortgages endorsed for FHA mortgage insurance under section 256 of the National Housing Act by authorized Lender Insurance mortgagees, and is not being proposed by HUD to apply in any other contexts related to the FHA programs.

<sup>1</sup> See HUD press release HUD No. 10–016, available at: [http://portal.hud.gov/portal/page/portal/HUD/press/press\\_releases\\_media\\_advisories/2010/HUDNo.10-016](http://portal.hud.gov/portal/page/portal/HUD/press/press_releases_media_advisories/2010/HUDNo.10-016).

As noted, cases of fraud or misrepresentation may require indemnification at any time. However, for cases not involving fraud or misrepresentation, section 256(c) limits the Department's ability to require indemnification to insurance claims paid within a “reasonable time period” established by HUD. New § 203.255(g) would implement this timing requirement by codifying HUD's longstanding practice of requiring indemnification for FHA insurance claims paid “within five years from the date of mortgage insurance endorsement.” The date of endorsement is a fixed date, and therefore has the benefit of being known to both HUD and the Lender Insurance mortgagee. Moreover, 5 years is a reasonable “seasoning” period for a particular mortgage loan to either perform or go into default and for the Department to ascertain whether errors in the origination of the mortgage loan were made, while not being so long a time frame so as to burden mortgagees with the possibility of indemnification for a long-ago endorsed mortgage loan.

Section 256(c) authorizes HUD to require indemnification where the mortgage was not originated in compliance with the HUD-established requirements. Proposed § 203.255(g) identifies the origination requirements for which HUD may seek indemnification if the Lender Insurance mortgagee knew or should have known that the requirements were not followed in the origination of the mortgage. HUD will seek such remedy for violations of FHA origination requirements that HUD deems serious and material; for example, in cases where the mortgage should never have been endorsed by the mortgagee, because FHA would not have insured the mortgage absent proper adherence to the Lender Insurance process. Specifically, a mortgagee may be required to indemnify HUD if it failed to, among other actions: (1) Verify and analyze the creditworthiness, income, and/or employment of the mortgagor in accordance with FHA requirements; (2) verify the source of assets brought by the mortgagor for payment of the required down payment and/or closing costs in accordance with FHA requirements; (3) address property deficiencies identified in the appraisal affecting the health and safety of the occupants or the structural integrity of the property in accordance with FHA requirements; or (4) ensure, in accordance with the requirements of § 203.5(e), that the appraisal of the property serving as security for the mortgage loan satisfies FHA appraisal

requirements. HUD may seek indemnification irrespective of whether the violation caused the mortgage default.

HUD deems violations of the origination requirements identified in the proposed rule as serious and material, because they pertain to the core analyses that must be performed for all properly underwritten mortgage loans. The purpose of mortgage loan underwriting is to evaluate the willingness and financial capability of the mortgagor to pay the loan, and to assess the physical condition of the property that is to serve as security for the mortgage loan, in order to determine whether it constitutes adequate collateral. These basic underwriting principles are enshrined in the so-called "Four C's of Credit" (credit, capacity, capital, and collateral) commonly referred to in the mortgage lending industry. The origination requirements listed above correspond to these fundamental underwriting functions. Accordingly, HUD believes that indemnification may be an appropriate remedy where the mortgagee knew or should have known that these requirements were not followed in the origination of the mortgage loan.

The proposed rule would also specify that the demand for indemnification will be made by either the Secretary or the Mortgagee Review Board. Under an indemnification agreement, the originating mortgage lender agrees to either abstain from filing an insurance claim, or to reimburse FHA if a subsequent holder of the mortgage files an insurance claim and FHA suffers a financial loss.

*2. Acceptable claim and default rate for Lender Insurance mortgagees.* Section 256(b) of the National Housing Act requires that the Secretary of HUD, in deciding whether to grant a mortgagee's application for Lender Insurance approval, consider "the experience and performance of the mortgagee compared to the default rate of all insured mortgagees in comparable markets." HUD has implemented this statutory requirement at § 203.4(b), which requires that "a mortgagee must have had an acceptable claim and default record for at least 2 years prior to its application for" Lender Insurance authority. The present regulation defines an acceptable claim and default as at or below 150 percent of either: (1) The national average rate for all insured mortgages; or (2) if the mortgagee operates in a single state, the average rate for insured mortgages in the state.

The current regulation may make it easier for a single state mortgagee to

meet the acceptable standard if the mortgagee operates in a state that has a high default rate. In contrast, a mortgagee would be disadvantaged by having its claim and default rate compared to the national average if the mortgagee operates in two states that have high default rates, even if the mortgagee is in full compliance with FHA requirements and otherwise eligible for Lender Insurance approval. To address these potential concerns, HUD proposes to revise the methodology for computing the acceptable claim and default rate for Lender Insurance approval. The proposed rule would revise § 203.4(b) by providing that a mortgagee is eligible for the Lender Insurance program if its claim and default rate is at or below 150 percent of the average rate in the state(s) where the mortgagee operates. The proposed methodology will more accurately reflect mortgagee performance by evaluating each mortgagee based on its actual area of operations.

*3. Need to maintain acceptable claim and default rate.* As noted, § 203.4(b) requires that mortgagees have an acceptable claim and default rate as an eligibility criterion for initial Lender Insurance approval; however, the regulation does not specify what constitutes an acceptable claim and default rate for purposes of maintaining Lender Insurance approval. This proposed rule emphasizes that a Lender Insurance mortgagee must continually maintain the acceptable claim and default rate required of them when they were initially granted Lender Insurance authority. HUD will review Lender Insurance mortgagee performance on a continual basis, and mortgagees that fail to maintain the required claim and default rate will be subject to termination of their Lender Insurance authority.

*4. Lender Insurance approval in the case of merger, acquisition, or restructuring.* Section 256 of the National Housing Act requires that HUD consider "the experience and performance of the mortgagee" in determining the appropriateness of delegating the Secretary's authority to endorse mortgages for FHA insurance. HUD's implementing regulations at § 203.4(b) elaborate on the statutory requirement by providing that "a mortgagee must have had an acceptable claim and default record for at least 2 years prior to its application for" Lender Insurance authority. As discussed above in this preamble, the Lender Insurance process is reserved for high-performing mortgagees. The performance history requirement helps to ensure that only

those mortgagees with a proven track record are eligible for Lender Insurance authority.

Newly formed business entities that do not have a performance record are, therefore, ineligible for Lender Insurance approval. This is true even if the newly formed lending institution was created by a merger, acquisition, or reorganization where one or more of the participating entities had Lender Insurance approval, and the new resulting lending institution retains the structure, staff, and operational protocols that would—absent the 2-year historical performance requirement—make the new entity eligible for Lender Insurance authority under section 256 of the National Housing Act. Deferral of Lender Insurance eligibility is merited for new corporate entities that have not had the time to establish an acceptable performance track history. However, in the case of new entities created by a merger, acquisition, or reorganization, it is possible to forecast future performance with a high degree of certainty based on the performance history of the predecessor entities. To deny Lender Insurance eligibility to such mortgagees simply for purposes of "running out the clock" is contrary to the rationale of the performance history requirement and the Lender Insurance process.

In the past, the Department has addressed this issue through the granting of case-by-case regulatory waivers, a process that has the potential to be lengthy and, on occasion, administratively burdensome. This proposed rule would eliminate the need for regulatory waivers by codifying the conditions under which the Secretary may grant Lender Insurance authority to a mortgagee with less than the required historical performance record. The proposed criteria would permit HUD to evaluate the performance of the new mortgagee based on the performance history of the predecessor corporate entities, while also safeguarding against the possibility that a mortgagee with a poor track record might attempt to circumvent the purposes of section 256 by acquiring or merging with a high-performing lending institution.

First, the mortgagee must be an entity created by a merger, acquisition, or reorganization completed less than 2 years prior to the date of the mortgagee's application for Lender Insurance approval. Secondly, one or more of the entities participating in the merger, acquisition, or reorganization must have had Lender Insurance approval at the time of the corporate restructuring. Third, all of the lending institutions participating in the corporate

restructuring must have had an acceptable claim and default record for the 2-years preceding the mortgagee's application for Lender Insurance approval. Fourth, and last, the extrapolated claim and default record of the mortgagee derived by aggregating the claims and defaults of the entities participating in the merger, acquisition, or reorganization, for the 2-year period prior to the mortgagee's application for Lender Insurance approval, constitutes an acceptable rate of claims and defaults.

The proposed new process would permit, but not compel, HUD to grant Lender Insurance authority to those mortgagees meeting the criteria outlined above. While a rebuttable presumption in favor of granting approval would be established by a mortgagee that meets all four of the required criteria, HUD may consider other available evidence or data indicative of performance, and may deny the application for Lender Insurance authority and require the mortgagee to wait until it establishes an acceptable performance track record. The proposed regulatory provision is consistent with HUD's responsibility to evaluate mortgagee experience and ensure that Lender Insurance authority is provided only to high-performing lenders that comply with FHA requirements, while also facilitating the provision of FHA-insurance by new lending institutions created by a corporate restructuring.

5. *HUD reviews.* Consistent with its duty to protect the FHA insurance fund, HUD monitors mortgagee performance on an ongoing basis (see, for example, the present regulation at 24 CFR 202.3 providing for such HUD reviews). However, the current Lender Insurance regulation at § 203.4(c) only refers to an annual performance review. This proposed rule would clarify that HUD will monitor a mortgagee's eligibility to participate in the Lender Insurance program on a continual basis.

6. *Termination of Lender Insurance authority.* This proposed rule would revise § 203.4(d), which governs terminations of Lender Insurance authority, for purposes of clarity and readability. The proposed rule would provide additional specificity on the grounds for termination. Revised § 203.4(d) provides that HUD may immediately terminate the mortgagee's approval to participate in the Lender Insurance program, if the mortgagee violates any of the requirements and procedures established by the Secretary for mortgagees approved to participate in the Lender Insurance program, the Direct Endorsement program, or the Title II Single Family mortgage

insurance program, or if HUD determines that other good cause exists. In addition, the proposed rule clarifies that terminations of Lender Insurance approval are effective upon receipt of HUD's notice of such termination. The proposed rule would also revise § 203.4(d) to clarify that pursuant to section 256(d) of the National Housing Act (12 U.S.C. 1715z-21(d)), HUD termination decisions are not subject to judicial review and that terminations instituted under § 203.4(d) are distinct from withdrawal of mortgagee approval by the Mortgage Review Board under 24 CFR part 25.

7. *Lender insurance pre-insurance review.* The present regulations at § 203.255(f)(1) require that mortgagees conduct a pre-insurance review of mortgages insured under the Lender Insurance process. The regulations provide that the pre-insurance review must meet HUD requirements, but does not specify the requirements for applicable reviews, instead providing that "HUD will directly inform participating mortgagees of its minimum requirements for pre-insurance review." This proposed rule would codify existing Lender Insurance practice concerning the pre-insurance review provisions, by specifying that Lender Insurance mortgagees are responsible for conducting the pre-insurance review that would otherwise be performed by HUD under the Direct Endorsement process.

8. *Technical correction.* In addition to the proposed regulatory changes discussed above in this preamble, HUD has taken the opportunity afforded by this proposed rule to make a nonsubstantive change to the existing regulations. The proposed rule would make a technical correction to § 203.4(a), which incorrectly cross-references to § 203.5 as containing the requirements for Direct Endorsement approval. These approval procedures are codified at § 203.3.

### III. Issue Under Consideration: Mandatory Electronic Submission of Case Binders

In addition to soliciting public comment on the proposed regulatory changes described above in this preamble, the Department solicits comment on a possible change to current recordkeeping and submission requirements that the Department is considering. The present Direct Endorsement regulations at 24 CFR 203.255(b) require mortgagees to submit to HUD specified documentation within 60 days after the date of closing of a mortgage loan (collectively, these documents and certifications are

referred to as the mortgage loan "case binder"). The Lender Insurance regulations at 24 CFR 203.255(f)(2) provide that mortgagees must maintain records, including origination files, in a manner and for a time frame prescribed by HUD, and must make these mortgage loan "case binders" available to HUD staff upon request.

Customarily, case binders are maintained and submitted to HUD in hard-copy paper format. Given changes in technology that facilitate the electronic submission and storing of mortgage loan records, HUD is now considering requiring by June 2012 that all case binders be submitted electronically regardless of the insurance process used by a mortgagee. Although Lender Insurance mortgagees are not currently required to submit case binders (except upon HUD's request for a post-endorsement technical review), under HUD's proposal they would be required to submit these mortgage loan records electronically within a specified time frame following insurance of the mortgage. The final rule may contain regulatory text requiring the electronic submission of case binders, and HUD invites public comment on such a possible change, including the appropriateness of a June 2012 implementation date, the costs and benefits that would be associated with the electronic submission of case binders, and what the required time frames should be for submission of electronic case binders following insurance of the mortgage. For more information about the costs and benefits of this provision, please see the regulatory planning and review section of this preamble.

### IV. Findings and Certification

#### *Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not an economically significant regulatory action, as provided under section 3(f)(1) of the Order).

This proposed rule would modify three existing areas affecting FHA-approved lenders. First, this rule would impose indemnification provisions to all approved mortgagees with Lender Insurance authority. Second, this rule would amend the methodology and requirements for determining an acceptable claim and default rate. Lastly, this rule would amend the 2-year

historical performance requirement for mortgagees resulting from merger, acquisition, or reorganization. Other provisions of this rule describe clarifying or technical changes which would not produce an economic impact. The proposed rule also solicits comments on a possible change to current recordkeeping and submission requirements that the Department is considering. To the extent that these amendments have any economic impact, it would be to reduce the compliance costs currently borne by lenders, by clarifying and providing additional instructions that supplement existing FHA requirements and procedures. This rule, as proposed, would not have an economic effect of greater than \$100 million and thus does not require a regulatory impact analysis. The reasons for HUD's determination are as follows:

**Indemnification Requirements.** With regard to the proposed indemnification provisions, this proposed rule codifies much of existing HUD practice, and this rule alone should not result in a dramatic change in underwriting practices and the quality of FHA loans, assuming that all of FHA's Direct Endorsement lenders currently conduct due diligence in extending FHA-insured loans. A marginal change will be encountered by those lenders with ineffective risk management practices and/or those lenders who have refused to execute an indemnification agreement. HUD expects there to be some reduction in claims paid by FHA, but not a noticeable reduction in the claims rate attributed to this change by itself. FHA's average loss rate on claims for first quarter Fiscal Year (FY) 2010 (October 1, 2009 to February 28, 2010) properties conveyed to HUD and subsequently sold was approximately 60 percent. For every claim averted, there would be a transfer (loss avoidance) of approximately \$73,000 to FHA.

The primary change is that all Direct Endorsement lenders with Lender Insurance authority will be subject to indemnification procedures and will not be able to negotiate the settlement, as is the current practice. This facet of the rule could lead to an efficiency: the initial process by a lender of deciding whether to indemnify FHA will be eliminated, and would be accompanied by reductions in the length and cost of negotiations. Time and effort may be saved because the costs of a lengthy preparation for both FHA and the lender in coming before the Mortgage Review Board are reduced by this proposed rule. The number of signed indemnifications for the last seven fiscal years (FY 2004 through the end of FY

2010) has averaged 1,282 indemnification agreements annually. If the average negotiation costs are one percent of the loan amount for both FHA and the lender (approximately \$140,000 is currently the average FHA-insured mortgage amount), then the transaction costs to avoid or delay the indemnification would be \$1,400 per loan. Over an average of 1,300 indemnifications, the aggregate transaction costs saved by this rule would be \$1.7 million.

**Acceptable Claim and Default Rate.** The proposed rule would make two changes regarding acceptable claim and default rates for Lender Insurance mortgagees. First, HUD proposes to more accurately evaluate a mortgagee's performance record by basing the claim and default rate comparison on the mortgagee's actual area of operations. The proposed rule also clarifies that, in order to retain their Lender Insurance authority, mortgagees must continually maintain the acceptable claim and default rate required of them when they were initially delegated such authority.

To simulate the impact of the proposed changes, HUD used data on active Direct Endorsement lenders. By moving to a consistent methodology, regional lenders are compared not to a national standard, but to their peers operating in the same area. Using as a base the total number of 1,945 currently active Direct Endorsement lenders, an additional 18 lenders would have the claim and default rate necessary for Lender Insurance authority under this proposed rule. However, the proposed requirement that Lender Insurance mortgagees maintain the acceptable default and claim rate initially required for Lender Insurance eligibility appears to result in a minimal reduction in the number of Direct Endorsement lenders that would be deemed to be eligible for Lender Insurance authority. Specifically, 113 out of the 1,945 currently active Direct Endorsement mortgagees would no longer have the necessary claim and default rate to maintain Lender Insurance authority; however, these mortgagees would retain their Direct Endorsement authority and could continue to participate in FHA programs.

The combined effect of the two proposed changes would be to reduce the number of Direct Endorsement mortgagees eligible for Lender Insurance authority (a reduction of 54). In the short run, this effect can be thought of as a transfer between lenders of different regions. In the longer run, HUD expects the impact of this rule to be geographically neutral. Lenders will not be permanently reduced as a result of

this rule; rather, HUD expects that lenders who can meet the eligibility criteria will eventually assume the business of those lenders who could not meet the new eligibility criteria.

**Lender Insurance Approval in the Case of Corporate Restructuring.** The proposed rule would facilitate the compliance of new lending institutions resulting from a merger, acquisition, or reorganization with the statutory requirements for Lender Insurance approval. The proposed rule would thus make changes designed to provide additional regulatory flexibility and better reflect existing market conditions. The regulatory 2-year performance history requirement may impose a burden on lenders whose compliance with FHA requirements was not affected by the business reorganization. Although HUD has in the past granted regulatory waivers to address this problem, the proposed rule will codify a solution that is less administratively burdensome than the regulatory waiver process.

**Mandatory Electronic Submission of Case Binders.** The present Direct Endorsement regulations require mortgagees to submit case binders to HUD within 60 days after the date of closing of a mortgage loan. Customarily, case binders are maintained and submitted to HUD in hard-copy paper format. Given changes in technology that facilitate the electronic submission and storing of mortgage loan records, the proposed rule solicits comments on whether HUD should require that all case binders be submitted electronically. Although Lender Insurance mortgagees are not currently required to submit case binders (except upon HUD's request), under HUD's proposal they would be required to submit these mortgage loan records electronically within a specified time frame following insurance of the mortgage.

The minimum cost of this change to mortgagee would be zero. Most companies already possess the technology to process electronic documents for their investors. In addition, there are currently seven lenders that submit a total of 250,000 electronic case binders annually. These firms would not incur additional costs for submitting electronic binders to FHA. Although most companies already subscribe to a service that transmits electronic documents, sending them to FHA would impose an additional cost. A reasonable estimate of the additional cost per loan is a transaction fee in the range of \$9 to \$17 per case binder, with an upfront cost of \$5,000 to \$15,000 per firm. With 4,000 firms, the aggregate

fixed cost of this portion of the rule would range from \$20 million to \$60 million. If FHA has an average of 1.5 million loans, then 1.25 million loans would be affected (1.5 million minus 250,000). The aggregate variable cost of this requirement would constitute from \$11 million to \$21 million (\$9 to \$17 multiplied by 1.25 million).

The low-cost-scenario is defined as the case where the fixed and variable costs are lowest and the high-cost scenario where the costs are highest. The annualized cost over 10 years at a 3 percent discount rate would be \$14 million in the low-cost scenario and \$29 million annually in the high-cost scenario. At a 7 percent discount rate, the annualized cost over 10 years would be \$15 million annually for the low-cost scenario and \$31 million for the high-cost scenario.

The net cost, however, of moving to mandatory electronic submission should not be lesser the gross cost described above, since there will be some substitution from more expensive postal to electronic submission. These benefits are expected to last for the next 10 years until a new investment is required. Consider, for example, if the case binders of one-half of all loans were mailed to FHA at a cost of \$30 per binder, then the annual savings of postal costs would be \$18.7 million. This provision generates net benefits for the low-cost of transmission scenario (a total of \$44 million at a 3 percent discount rate over 10 years) but not for the high-cost of transmission of scenario (a net cost of \$81 million at the 3 percent discount rate). The annualized net benefit in the low-cost scenario is \$5.4 million and the annualized net cost in the high-cost scenario is \$9.6 annually.

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

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking

requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule would not add any new regulatory burdens on FHA-approved mortgage lenders. Rather, as noted above in this preamble (*see* the section captioned “Regulatory Planning and Review”), the proposed rule would codify much of existing practice regarding indemnification. Specifically, the proposed rule would codify a definition of the term “origination” for purposes of indemnification, specify time limits on HUD’s ability to demand indemnification in cases not involving fraud or misrepresentation, and identify specific defects in mortgage loan origination that may prompt HUD to seek indemnification. The primary change is that all Lender Insurance mortgagees will be subject to indemnification and will not be able to negotiate a settlement in lieu of indemnification. As noted in the “Regulatory Planning and Review” section of this preamble, this change may have a marginal impact on those lenders with ineffective risk management practices and who have refused to execute an indemnification agreement. Accordingly, to the extent that indemnification provisions of this proposed rule have any economic impact, it will be as a result of the lender’s own actions—i.e., its inability or unwillingness to comply with prudent risk management practices—and not as a result of HUD regulatory action.

HUD also proposes to revise the methodology for determining acceptable claim and default rates. The regulatory change will more accurately evaluate a mortgagee’s performance record by basing the claim and default rate comparison on the mortgagee’s actual area of operations, rather than on the national average. This change would have an overall beneficial economic impact on small business lenders.<sup>2</sup> HUD data indicates that an additional ten small business lenders would be deemed to have an acceptable claim and default rate for purposes of Lender Insurance authority as a result of this change. (There are currently 602 active small business Direct Endorsement mortgagees participating in FHA programs.)

The proposed rule also specifies that mortgagees must maintain the

acceptable claim and default rate required of them when they were initially granted Lender Insurance authority, in order to retain such authority, and that HUD will monitor mortgagee performance on an ongoing basis. As noted in the “Regulatory Planning and Review” section of this preamble, this provision of the proposed rule would result in a minimal reduction in the number of Direct Endorsement lenders that would be deemed eligible for Lender Insurance authority (113 out of a total of 1,945 currently active Direct Endorsement mortgagees). However, the economic impacts of this change should be minimal, as these lenders will continue to be able to participate in FHA programs as Direct Endorsement mortgagees. Moreover HUD reiterates that Lender Insurance authority is reserved for high-performing mortgagees that have a proven track record of risk management and sound underwriting practices. The regulatory change would merely require that Lender Insurance mortgagees maintain the same performance record that first made them eligible for Lender Insurance authority. To the extent that the proposed amendment has any impact, it will be as a consequence of the lender’s inability to maintain acceptable risk management practices, and not as a result a HUD regulatory mandate.

The proposed rule also would make several changes designed to provide additional regulatory flexibility and better reflect existing market conditions. For example, the proposed rule would facilitate the compliance of new lending institutions created by a merger, acquisition, or reorganization with the statutory requirements for Lender Insurance approval. Under HUD’s regulations implementing section 256 of the National Housing Act, mortgagees must comply with a 2-year performance history requirement in order to qualify for Lender Insurance approval. As a new business entity, the lending institution created by a merger, acquisition, or reorganization would not be able to comply with the performance 2-year history requirements, and thus would be ineligible for Lender Insurance authority. The regulatory 2-year performance history requirement may impose a burden on lenders whose compliance with FHA requirements is not affected by the business reorganization. Although HUD has in the past granted regulatory waivers to address this problem, the proposed rule will codify a solution that is less administratively burdensome than the regulatory waiver process.

<sup>2</sup> The Small Business Administration size standard regulations at 13 CFR 121.201 define small business lenders and mortgagees as having less than \$7 million in annual revenues for nondepository firms and assets under \$175 million for depository firms.

The proposed rule also solicits comment on a possible change to current recordkeeping and submission requirements. In light of changes in technology that facilitate the electronic submission and storing of mortgage loan records, HUD is considering requiring that case binders be submitted electronically regardless of the insurance process used by a mortgagee. As discussed in detail in the "Regulatory Planning and Review" section of this preamble, the proposed change likely would reduce the economic burden imposed on mortgagees by no longer requiring that they incur the cost of maintaining paper records (except in the worst high-cost scenario). Moreover, these benefits are expected to last for the next 10 years until a new technology investment is required.

Accordingly, for the above reasons, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives, as described in this preamble.

#### *Executive Order 13132, Federalism*

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

#### *Environmental Impact*

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise

govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

#### *Paperwork Reduction Act*

The information collection requirements for this proposed rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0059. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

#### *Catalogue of Federal Domestic Assistance*

The Catalogue of Federal Domestic Assistance Number for the principal FHA single family mortgage insurance program is 14.117.

#### **List of Subjects in 24 CFR Part 203**

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, for the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 203 to read as follows:

#### **PART 203—SINGLE FAMILY MORTGAGE INSURANCE**

1. The authority citation for part 203 is revised to read as follows:

**Authority:** 12 U.S.C. 1709, 1710, 1715b, 1715z–16, 1715u, and 1717z–21; 42 U.S.C. 3535(d).

2. In § 203.4, amend paragraph (a) by revising the reference "§ 203.5" to read "§ 203.3" and revise paragraphs (b), (c), and (d), to read as follows:

#### **§ 203.4 Approval of mortgagees for Lender Insurance.**

\* \* \* \* \*

(b) *Performance: Claim and default rate.* (1) In addition to being unconditionally approved for the Direct Endorsement program, a mortgagee must have had an acceptable claim and

default rate (as described in paragraph (b)(3) of this section) for at least 2 years prior to its application for participation in the Lender Insurance program, and must maintain such a claim and default rate in order to retain Lender Insurance approval.

(2) HUD may approve a mortgagee that is otherwise eligible for Lender Insurance approval, but has an acceptable claim and default record of less than 2 years, if:

(i) The mortgagee is an entity created by a merger, acquisition, or reorganization completed less than 2 years prior to the date of the mortgagee's application for Lender Insurance approval;

(ii) One or more of the entities participating in the merger, acquisition, or reorganization had Lender Insurance approval at the time of the merger, acquisition, or reorganization;

(iii) All of the lending institutions participating in the merger, acquisition, or reorganization had an acceptable claim and default record for the 2 years preceding the mortgagee's application for Lender Insurance approval; and

(iv) The extrapolated claim and default record of the mortgagee derived by aggregating the claims and defaults of the entities participating in the merger, acquisition, or reorganization, for the 2-year period prior to the mortgagee's application for Lender Insurance approval, constitutes an acceptable rate of claims and defaults, as defined by this section.

(3) A mortgagee has an acceptable claim and default rate if its rate of claims and defaults is at or below 150 percent of the average rate for insured mortgages in the state(s) in which the mortgagee operates.

(c) *Reviews.* HUD will monitor a mortgagee's eligibility to participate in the Lender Insurance program on a continual basis.

(d) *Termination of approval.* (1) HUD may immediately terminate the mortgagee's approval to participate in the Lender Insurance program, in accordance with section 256(d) of the National Housing Act (12 U.S.C. 1715z–21(d)), if the mortgagee:

(i) Violates any of the requirements and procedures established by the Secretary for mortgagees approved to participate in HUD's Lender Insurance program, Direct Endorsement program, or the Title II Single Family mortgage insurance program; or

(ii) If HUD determines that other good cause exists.

(2) Such termination will be effective upon receipt of HUD's notice advising of the termination. Within 30 days after receiving HUD's notice of termination, a

mortgagee may request an informal conference with the Deputy Assistant Secretary for Single Family Housing or designee. The conference will be conducted within 30 days after HUD receives a timely request for the conference. After the conference, the Deputy Assistant Secretary (or designee) may decide to affirm the termination action or to reinstate the mortgagee's Lender Insurance program approval. The decision will be communicated to the mortgagee in writing, will be deemed a final agency action, and, pursuant to section 256(d) of the National Housing Act (12 U.S.C. 1715z-21(d)), is not subject to judicial review.

(3) Termination of an origination approval agreement under part 202 of this chapter or termination of Direct Endorsement approval under § 203.3(d)(2) for a mortgagee or one or more branch offices automatically terminates Lender Insurance approval for the mortgagee or the branch office or offices, without imposing any further requirement on the mortgagee or such offices to comply with this paragraph.

(4) Any termination instituted under this section is distinct from withdrawal of mortgagee approval by the Mortgagee Review Board under 24 CFR part 25.

3. In § 203.255, revise paragraph (f)(1), remove paragraph (f)(4), and add paragraph (g) to read as follows:

**§ 203.255 Insurance of mortgage.**

\* \* \* \* \*

(f) *Lender Insurance.* (1) *Pre-insurance review.* For applications for insurance involving mortgages originated under the Lender Insurance program under § 203.6, the mortgagee is responsible for performing a pre-insurance review that would otherwise be performed by HUD under § 203.255(c) on the documents that would otherwise be submitted to HUD under § 203.255(b). The mortgagee's staff that performs the pre-insurance review must not be the same staff that originated the mortgage or underwrote the mortgage for insurance.

\* \* \* \* \*

(g) *Indemnification.* (1) *General.* By insuring the mortgage, a Lender Insurance mortgagee agrees to indemnify HUD, in accordance with this paragraph.

(2) *Definition of origination.* For purposes of indemnification under this paragraph, the term "origination" means the process of creating a mortgage, starting with the taking of the initial application, continuing with the processing and underwriting, and ending with the mortgagee endorsing the mortgage note for FHA insurance.

(3) *Serious and material violation.* The mortgagee shall indemnify HUD for an FHA insurance claim paid within 5 years of mortgage insurance endorsement, if the mortgagee knew or should have known of a serious and material violation of FHA origination requirements, such that the mortgage loan should not have been approved and endorsed by the mortgagee and irrespective of whether the violation caused the mortgage default. Such a serious and material violation of FHA requirements in the origination of the mortgage may occur if the mortgagee failed to, among other actions:

(i) Verify the creditworthiness, income, and/or employment of the mortgagor in accordance with FHA requirements;

(ii) Verify the assets brought by the mortgagor for payment of the required down payment and/or closing costs in accordance with FHA requirements; or

(iii) Address property deficiencies identified in the appraisal affecting the health and safety of the occupants or the structural integrity of the property in accordance with FHA requirements, or

(iv) Ensure that the appraisal of the property serving as security for the mortgage loan satisfies FHA appraisal requirements, in accordance with § 203.5(e).

(4) *Fraud or misrepresentation.* The mortgagee shall indemnify HUD for an insurance claim if fraud or misrepresentation was involved in connection with the origination of the mortgage, regardless of when the mortgage was endorsed for insurance and irrespective of whether the fraud or misrepresentation caused the mortgage default.

(5) *Demand for indemnification.* The demand for indemnification will be made by either the Secretary or the Mortgagee Review Board. Under an indemnification agreement, the Lender Insurance mortgagee agrees to either abstain from filing an insurance claim, or reimburse FHA if a subsequent holder of the mortgage files an insurance claim and FHA suffers a financial loss.

Dated: September 16, 2010.

**David H. Stevens,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2010-25441 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF JUSTICE**

**28 CFR Part 2**

**Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes**

**AGENCY:** United States Parole Commission, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Parole Commission seeks public comment on a proposed rule that would amend the Offense Behavior Severity Index in its paroling policy guidelines to equalize the ratings for crack cocaine and powder cocaine offenses.

**DATES:** Comments must be received by December 1, 2010.

**ADDRESSES:** Submit your comments, identified by docket identification number USPC-2010-03 by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

- *Fax:* (301) 492-5563.

**FOR FURTHER INFORMATION CONTACT:**

Johanna E. Markind, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492-5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

**SUPPLEMENTARY INFORMATION:**

**Background**

The U.S. Parole Commission is responsible for making parole release decisions for those federal prisoners who are eligible for parole under the now-repealed indeterminate sentencing system. Under this system, a prisoner may be released to community supervision after he serves a minimum term required by his sentence or by operation of law. After the Commission makes a discretionary judgment to release the prisoner and imposes conditions of release, the released prisoner remains on supervision until the expiration of his sentence or his supervision is terminated early. Parole may be revoked and the offender returned to imprisonment for violating the conditions of release. The Commission carries out its duties under the statutes at 18 U.S.C. 4201-4218. The Commission also has similar

responsibility for making parole release and revocation decisions for District of Columbia parole-eligible prisoners, under the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33. Regarding DC prisoners who committed their crimes after August 4, 2000, the Commission has responsibility for imposing conditions of supervised release and revoking supervised release terms for violation of the conditions.

The Parole Commission uses paroling policy guidelines in making decisions on parole release for parole-eligible federal prisoners, and federal and DC parolees whose paroles have been revoked and are eligible for reparole. These guidelines are also used for D.C. supervised releasees whose supervised release has been revoked. The guidelines are found at 28 CFR 2.20 and consist of an Offense Behavior Severity Index and a parole prognosis based on an actuarial tool known as the Salient Factor Score. The Offense Behavior Severity Index divides various crimes, including drug distribution crimes, into eight categories, from Category One (lowest severity) to Category Eight (highest severity). The guidelines also list four parole prognoses based on the Salient Factor Score from “very good” to “poor”. The offense categories are arrayed on a vertical axis and the parole prognoses on a horizontal axis. At the intersection of each offense category and parole prognosis, there is a suggested range of months to be served before release. For example, a prisoner with an offense severity rating of Category Five and a parole prognosis of poor has a suggested range of 60–72 months to be served. The Commission may set a release date that falls within the guideline range, or make a decision outside the guidelines.

In February 2010, the Commission Chair appointed a committee to review the Commission’s rating of crack cocaine offenses and to recommend any changes it believed were needed. The committee’s findings are summarized below. Based on those findings, the committee recommended that the Parole Commission amend its Offense Behavior Severity Index to equalize the weight ratios between powder and crack cocaine.

#### Study Committee Findings

Effective April 5, 1987, the Parole Commission adopted its current guidelines for grading the severity of offenses involving cocaine distribution. See 52 FR 5761–63 (Feb. 26, 1987).

The Commission created separate guidelines for freebase or “crack” cocaine, and powder cocaine, under

which offenses involving crack are sanctioned more severely than offenses involving powder cocaine, generally under a 10-to-1 ratio. That is, an offender distributing (or intending to distribute) a given weight of crack is presumptively sanctioned the same as an offender distributing (or intending to distribute) ten times that weight of powder cocaine. The Commission instituted the change because it was concerned that its prior guidelines did not appropriately sanction offenses related to the freebase form of the drug given the addictive nature of crack cocaine, the violence associated with its manufacture and distribution, and its relatively inexpensive street sale price. Former Senator D’Amato apparently recommended the 10-to-1 ratio. 51 FR 42594 (Nov. 25, 1986); 52 FR 5762. The basis for the selection of the 10-to-1 ratio was not further explained. The Commission sought public comment about “the relative potency of ‘CRACK’ cocaine as compared with other forms of the drug,” but did not receive any response. 51 FR 42594; 52 FR 5762.

The Commission’s current policy was adopted at about the same time Congress passed the Anti-Drug Abuse Act of 1986, Public Law 99–570, and at the time the U.S. Sentencing Commission was formulating its sentencing guidelines. Crack was a relatively new drug at the time but, in the words of the U.S. Supreme Court, it was “a matter of great public concern.” *Kimbrough v. United States*, 552 U.S. 85, 95 (2007). The 1986 Anti-Drug Abuse Act reflected that concern by adopting a 100-to-1 ratio that treated a single gram of crack as equivalent to 100 grams of powder cocaine. The Sentencing Commission incorporated the 1986 law’s 100-to-1 ratio for crack offenses. Subsequently, the Sentencing Commission conducted research into cocaine usage and addiction as well as research into the application of the federal sentencing guidelines. The Sentencing Commission’s February 1995 report *Cocaine and Federal Sentencing Policy* concluded that under the 100-to-1 sentencing disparity, low-level ‘street’ dealers potentially receive harsher punishments than major drug traffickers, whereas the 1986 Anti-Drug Abuse Act was intended to have the opposite effect. The Sentencing Commission’s May 2002 report on the same subject included the following findings:

a. Crack is typically prepared at or near the end of the distribution chain. Two-thirds of federal crack cocaine offenders were street-level dealers and only 5.9% performed trafficking functions.

b. “The overwhelming majority of offenders subject to the heightened crack cocaine penalties are black, about 85 percent in 2000 \* \* \*. This has contributed to a widely held perception that the current penalty structure promotes unwarranted disparity based on race.”

c. Cocaine in any form produces the same physiological and psychotropic effects, but powder cocaine, because it is usually snorted, poses a lesser risk of addiction to the typical user than does crack cocaine, which is usually smoked. Precisely quantifying this difference in addictiveness is impossible.

d. While serious, the relative harmfulness of crack has been exaggerated. Violence was associated only with a small minority of crack offenses. In 2000, three out of four crack offenders had no involvement with a weapon and even when offenders possessed weapons, the weapons were rarely used. Only 2.3% of crack offenders used a weapon, and only 7.9% of crack offenses involved bodily injury of any type. Research showed that the negative effects of prenatal exposure to crack were identical to the negative effects of cocaine powder. The feared epidemic of youth using crack did not materialize to the extent feared.

The Commission’s study committee relied upon research collected by the Sentencing Commission as its starting point in reviewing Parole Commission policies for sanctioning crack cocaine offenses. Glen R. Hanson, then Acting Director, National Institute on Drug Abuse, National Institutes of Health, U.S. Department of Health and Human Services, testified before the Sentencing Commission on February 25, 2002, that: “Cocaine, in any form, produces the same effects once it reaches the brain. It produces similar physiological and psychological effects, but the onset, intensity and duration of its effects are related directly to the method of use and how rapidly cocaine enters the brain.” According to Dr. Hanson, a drug user snorting powder cocaine begins to feel the “high” within 3–5 minutes, the blood level peaks at 10–20 minutes, and fades within 45–60 minutes. Intravenous use, or injection—for which powder cocaine is also used—results in a cocaine “rush” within 30–45 seconds and the drug’s effects last for 10–20 minutes. Inhalation, or smoking—*i.e.*, using crack—produces the quickest and highest peak blood levels in the brain. The user experiences the “high” within only 8–10 seconds. On February 12, 2008, the Senate Judiciary Subcommittee on Crime and Drugs received similar testimony from Nora D. Volkow, current Director, National

Institute on Drug Abuse, National Institutes of Health, U.S. Department of Health and Human Services, to the effect that crack and powder cocaine have the same effect on the brain but that the user experiences the high and low much faster by smoking crack than by snorting cocaine powder.

Unlike the offense ratings for powder cocaine, the ratings for crack do not require the Parole Commission to determine its purity level before determining the severity category for the possession or distribution of the drug. The study committee examined whether the guidelines should be revised to consider purity level for a mixture containing cocaine base as it does for a mixture containing cocaine powder. When the guidelines were developed in the 1970s, the purity of cocaine powder and heroin varied widely from original production to street level distribution. It was not uncommon to see virtually pure cocaine powder diluted numerous times with cutting agents as it moved down the line through various levels of drug dealers. Therefore, the Commission determined that the only fair way to gauge the seriousness of a cocaine offense was to ascertain the purity of the substance and to sanction based only on the actual amount (weight) of pure cocaine involved.

In considering the issue of an appropriate severity rating for crack cocaine, the Commission was aware that once crack rocks are produced, they can be cut into smaller rocks but they cannot readily be diluted. The purity remains the same as the product moves down the distribution chain. Moreover, the purity of crack produced for use generally does not vary much from one batch to the next. Much as the purity of marijuana remains rather constant from batch to batch, the seriousness of crack offenses seemed to be better judged strictly by gross quantity (weight) without regard for purity.

More recent information indicates that there is some variance in the purity levels of crack, but less so than in the purity levels of powder cocaine. This conclusion is based on interviews conducted by committee members and by the written conclusions of the Sentencing Commission. The Sentencing Commission's 1995 report *Cocaine and Federal Sentencing Policy* states: "One gram of pure powder cocaine will convert to approximately 0.89 grams of crack cocaine. The Drug Enforcement Administration estimates that crack rocks are between 75 and 90 percent pure cocaine."

The bulk of the Parole Commission's current caseload involving crack sales concerns small-time street sales in the

District of Columbia. The Commission's experience is that the DEA laboratory performs an analysis of crack confiscated by DC police only if a case appears headed for trial. If the case appears headed for a guilty plea or if a revocation hearing is held before a case is adjudicated, it is often difficult for the Commission to obtain a laboratory report. As a practical matter, Commission files frequently do not contain DEA lab reports in crack cocaine cases, and so it would be impossible in many cases to determine the purity level of crack involved.

The committee sought feedback from Commission hearing examiners about the current policy and whether it should be changed. Those examiners who responded unanimously favored equalizing the treatment of crack and powder cocaine. The general consensus was that the existing sanctions for crack are too harsh and discriminatory (socioeconomically if not racially), and that many of those caught selling were not in fact hard-core dealers but were essentially addicts trying to fund their own habit.

In sum, the study committee found:

a. There was no empirical basis for the 10-to-1 ratio adopted by the Parole Commission in 1987 which is currently used in Commission guidelines.

b. Cocaine in any form produces the same physiological and psychotropic effects on the brain.

c. Crack cocaine is more addictive than powder cocaine because the method of taking the drug (inhalation) results in the user experiencing a faster "high" and faster "crash." Unfortunately, the committee was unable to identify any authoritative sources quantifying the increased risk of addiction that crack represents. Furthermore, a user who injects powder also experiences a rapid high and low from the drug, although the effects from injection are not felt quite as rapidly as from smoking crack, and powder is more often snorted than injected.

d. According to the DEA and Sentencing Commission, one gram of cocaine powder converts/reduces to 0.89 gram cocaine base. Conversely, one gram of cocaine base would convert to 1.12 grams of cocaine powder.

e. As a practical matter, establishing the exact purity ratio of crack in a transaction that is examined by the Commission but that did not result in a trial would be all but impossible in most revocation cases unless a practical means is found for hearing examiners to obtain laboratory analyses on a consistent basis.

f. Commission hearing examiners who provided feedback to the committee

unanimously favored equalizing the weight-based sanctions for crack and powder cocaine.

### **Revision of Sentencing Guidelines Ratio**

In 1995, the Sentencing Commission recommended eliminating the sentencing guidelines' 100-to-1 disparity in rating powder cocaine and crack cocaine crimes. After Congress rejected that suggestion, the Sentencing Commission recommended reducing the disparity to 5-to-1. In 2007, the Sentencing Commission adopted an ameliorative change reducing the sentencing guidelines base offense score by two levels in crack cases to reduce the disparity; depending on the weight of drugs involved, the revised ratio varied from 25-to-1 to 50-to-1.

In July 2009, the House Judiciary Committee approved legislation (H.R. 3245, The Fairness in Cocaine Sentencing Act of 2009) that would completely eliminate the disparity between powder and crack cocaine. On October 15, 2009, Senator Durbin introduced a draft bill (S. 1789, The Fair Sentencing Act) in the Senate that would likewise have eliminated the disparity. On March 11, 2010, the Senate Judiciary Committee unanimously approved a revised version that reduced the disparity on new sentences to 18-to-1. The full Senate passed the bill (applying an 18-to-1 ratio) on March 17, 2010, and the House approved it on July 28, 2010. Now known as the Fair Sentencing Act of 2010, the President signed it into law on August 3, 2010.

Opponents of equalization of crack and powder cocaine offenses have argued that differential treatment of powder and crack cocaine offenses is supported by the association of violence with crack crimes. The new law requires the Sentencing Commission to provide a sentencing enhancement "if the defendant used violence" or threatened or directed the use of violence. Parole Commission guidelines take violence into account through a different method. In the case of drug crimes involving violence, if the guidelines offense severity rating for the violent/assaultive conduct exceeds the rating for the drug offense, the former will be applied.

### **Study Committee Recommendations and Commission Action**

After weighing the above findings, the study committee recommended that the Commission propose a rule change to the paroling guidelines at Chapter Nine of the Offense Behavior Severity Index that would equalize the offense severity ratings for crack and powder cocaine

offenses. The Commission recently voted to promulgate a proposed rule for public comment that would remove the different ratings for crack and powder cocaine crimes. The proposed rule also makes minor revisions to the breakdown of drug weights in the interest of greater clarity and consistency.

#### Executive Order 12866

The U.S. Parole Commission has determined that this proposed rule does not constitute a significant rule within the meaning of Executive Order 12866.

#### Executive Order 13132

This regulation 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. Under Executive Order 13132, this rule does not have sufficient federalism implications to require a Federalism Assessment.

#### Regulatory Flexibility Act

The proposed rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

#### Unfunded Mandates Reform Act of 1995

The rule will not cause State, local, or tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

#### Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E—Congressional Review Act)

This rule is not a “major rule” as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E—Congressional Review Act), now codified at 5 U.S.C. 804(2). The rule 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 the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and does not come within the meaning of the term “rule” as used in Section 804(3)(c), now codified at 5 U.S.C. 804(3)(c). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

#### The Proposed Rule

Accordingly, the U.S. Parole Commission is proposing the following amendment to 28 CFR part 2.

#### PART 2—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

**Authority:** 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Amend § 2.20, in the U.S. Parole Commission Offense Behavior Severity Index, Chapter Nine—Offenses Involving Illicit Drugs, by revising the entry entitled “921 *Distribution or Possession With Intent To Distribute*” in Subchapter C—Cocaine Offenses to read as follows:

#### § 2.20 Paroling policy guidelines: Statement of general policy.

\* \* \* \* \*

U.S. Parole Commission Offense Behavior Severity Index

\* \* \* \* \*

Chapter Nine—Offenses Involving Illicit Drugs

\* \* \* \* \*

#### Subchapter C—Cocaine Offenses

921 *Distribution or Possession With Intent To Distribute*

(a) If extremely large scale (*e.g.*, involving 15 kilograms or more cocaine powder of 100% purity, or equivalent amount; or 15 kilograms of a substance containing a detectable amount of cocaine base), grade as Category Eight [except as noted in (c) below];

(b) If very large scale (*e.g.*, involving at least 5 kilograms but less than 15 kilograms cocaine powder of 100% purity, or equivalent amount; or at least 5 kilograms but less than 15 kilograms of a substance containing a detectable amount of cocaine base), grade as Category Seven [except as noted in (c) below];

(c) Where the Commission finds that the offender had only a peripheral role\*, grade conduct under (a) or (b) as Category Six;

(d) If large scale (*e.g.*, involving at least 1 kilogram but less than 5 kilograms cocaine powder of 100% purity, or equivalent amount; or at least 1 kilogram but less than 5 kilograms of a substance containing a detectable amount of cocaine base), grade as Category Six [except as noted in (e) below];

(e) Where the Commission finds that the offender had only a peripheral role,

grade conduct under (d) as Category Five;

(f) If medium scale (*e.g.*, involving at least 100 grams but less than 1 kilogram cocaine powder of 100% purity, or equivalent amount; or at least 100 grams but less than 1 kilogram of a substance containing a detectable amount of cocaine base), grade as Category Five;

(g) If small scale (*e.g.*, involving at least 5 grams but less than 100 grams cocaine powder of 100% purity, or equivalent amount; or at least 5 grams but less than 100 grams of a substance containing a detectable amount of cocaine base), grade as Category Four;

(h) If very small scale (*e.g.*, involving at least 1 gram but less than 5 grams cocaine powder of 100% purity, or equivalent amount; or at least 1 gram but less than 5 grams of a substance containing a detectable amount of cocaine base), grade as Category Three;

(i) If extremely small scale (*e.g.*, involving less than 1 gram cocaine powder of 100% purity, or equivalent amount; or less than 1 gram of a substance containing a detectable amount of cocaine base), grade as Category Two.

\* \* \* \* \*

Dated: September 17, 2010.

**Isaac Fulwood,**

*Chairman, U.S. Parole Commission.*

[FR Doc. 2010-24648 Filed 10-7-10; 8:45 am]

**BILLING CODE 4410-31-P**

#### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2009-4]

#### Minimum Balance Requirement and Automatic Replenishment Option for Deposit Account Holders

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Office is proposing to amend its regulations to set the minimum level of activity required to hold a deposit account at 12 transactions per year; require deposit account holders to maintain a minimum balance in that account; mandate the closure of a deposit account the second time it is overdrawn; and offer deposit account holders the option of automatic replenishment of their account via their bank account or credit card.

**DATES:** Written comments must be received in the Office of the General

Counsel of the Copyright Office no later than November 22, 2010.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to the Library of Congress, U.S. Copyright Office, Room LM-401, James Madison Building, 101 Independence Ave., SE., Washington, DC 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site ("CCAS") located at 2nd and D Streets, SE., Washington, DC between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM-403, James Madison Building, 101 Independence Avenue, SE., Washington, DC 20559. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Tanya Sandros, Deputy General Counsel or, Chris Weston, Attorney Advisor. Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

#### **SUPPLEMENTARY INFORMATION:**

##### **Deposit Account Background**

The Copyright Office maintains a system of deposit accounts for those who frequently use its services. An individual or entity may establish a deposit account, make advance deposits into that account, and charge copyright fees against the balance instead of sending separate payments with applications and other requests for services. This process has proven to be more efficient and less expensive for both the Office and the applicant than sending separate payments to the Copyright Office for each application for registration or for other services.

##### **Prior Notice of Proposed Rulemaking**

On July 14, 2009, the Copyright Office published a notice in the **Federal Register**, 74 FR 33930, seeking public comment on a proposed amendment to its copyright registration regulations (37

CFR 201 and 202). The amendment would have required that applications for copyright registration paid for by deposit account debits be submitted using the electronic Copyright Office (eCO) registration system (eService). The July 2009 Notice of Proposed Rulemaking also sought comment on whether registration applicants continue to find deposit accounts to be a valuable service.

The goal of the July 2009 Notice of Proposed Rulemaking (and the goal of the present Notice) was to solve the problem of paper registration applications being suspended for lack of deposit account funds. As the Notice explained, when the deposit account being used for payment has insufficient funds to process a paper application, the Copyright Office suspends processing of the application to notify the account holder that replenishment of the account is needed, and places the pending application and associated deposit copies in temporary storage. The suspended applications, which may number 3,000 or more at any one time, must be reviewed regularly by Office staff to locate those that are newly funded and reprocess them. Thus, insufficient deposit account funding effectively doubles—at a minimum—the time Office staff must spend processing an application, time that would otherwise be more profitably spent on processing properly filed claims in a more timely manner.

On average, three to four percent of paper applications for registration are suspended each year due to lack of sufficient deposit account funds. In fiscal 2007, between 16,000 and 22,000 applications were put on hold for insufficient deposit account funds, and the amount appears to have remained consistent throughout 2008 and 2009. The Office has expended substantial resources managing these suspended applications and deposits. While the Office assesses service charges for deposit account overdrafts (\$165) and dishonored deposit account replenishment checks (\$85), *see* 37 CFR 201.3(d), these penalties do not recover all costs or solve the fundamental problems associated with the additional handling and the delay in processing.

In July 2009, the Copyright Office proposed that the problem of insufficient deposit account funds for paper applications should be solved by requiring all deposit account holders to file their applications via eService, the Office's electronic registration system. An application for registration made via eService cannot be completed until the method of payment is verified by, for example, ensuring that sufficient funds

are present in the deposit account and payment has been made. This method is much more efficient than filing paper applications, which must go through a number of processing steps before the validity of the proffered method of payment can be ascertained. The proposal also noted that electronic registration benefits applicants in that it offers a lower fee than paper registrations (\$35 instead of \$65) and helps to establish an earlier effective date of registration.

##### **Comments Received in Response to Proposal for Mandatory Electronic Registration for Deposit Account Holders**

Even though approximately 3,000 entities currently use deposit accounts, the July 2009 Notice of Proposed Rulemaking garnered only six public comments. Of these, the American Society of Media Photographers, Inc. (ASMP), the Historical Publications Section of the North Carolina Department of Cultural Resources (NCDCR), and Perseus Book Group supported the proposed eService application requirement. The Motion Picture Association of America (MPAA), the National Intellectual Property Researchers Association (NIPRA), and Government Liaison Services, Inc. (GLS) opposed the proposal. Four of the commenters also discussed the continued value of deposit accounts. The MPAA, NCDCR, and Perseus vigorously maintained that deposit accounts still offer significant benefits. ASMP, on the other hand, offered conditional support for their elimination.

For those commenters who voiced approval of the mandatory electronic registration proposal—praising the current functionality of eService, NCDCR comment at 2, and stating that the requirement “would substantially improve the speed, efficiency and economy of processing applications,” ASMP comment at 1–2—the benefits of electronic registration will of course remain available.

The MPAA comments, however, challenged the initial proposed rule as premature and suggested an alternative whereby each deposit account holder would be charged an up-front \$100 fee that would be held as a kind of security deposit. MPAA comment at 2. According to the MPAA proposal, if an applicant has insufficient funds in its deposit account to pay for a paper application, the Copyright Office should close the deposit account and use the security deposit to pay for returning the application to the applicant. The MPAA argued that rights-holders should not be

denied the option of continuing to use paper applications because of the actions of “irresponsible” deposit account holders. See MPAA comment at 4.

MPAA also expressed its skepticism of eService’s reliability. “eService is relatively new and there continues to be some ‘bugs’ in the system,” it stated. Specifically, “MPAA member companies have experienced difficulties in allowing multiple users to access the system at the same time, and there is a need for the new system to have a meaningful review capability, which would include true search functionality.” MPAA comment at 3. MPAA’s comment dates from August 2009, and since then the Office has significantly improved eService’s capabilities.

Two other commenters also took issue with the Copyright Office’s claims for eService efficiency. NIPRA and GLS challenged the Copyright Office’s estimation of how long eService registration applications take to be processed, arguing that since the advent of electronic registration, processing time has actually increased to two years. NIPRA comment at 2; GLS comment at 2. In fact the processing time increase—which is real—represents for the most part the increased time needed to process paper applications, which now have to be transcribed into the Office’s digital system. eService applications with sufficient funds are not subject to this additional step, and thus generally enjoy quicker processing. Currently, 90% of eService registration applications are processed in slightly more than five months (meaning many are completed much sooner), compared to 25 months for paper applications.

NIPRA and GLS further charged that “given the Copyright Office requirement for deposits consisting of the ‘best edition’ of works, the physical limitations of the electronic system will render compliance with the requirement impossible for works such as voluminous texts, motion pictures and many software filings.” NIPRA comment at 2. This concern is misplaced. Electronic registration does not require the submission of an electronic deposit. Applicants have an option of either uploading the deposit as an electronic file or sending the deposit to the Office using the packing slip provided during the electronic registration process. 37 CFR 202.3(b)(2)(ii)(A)–(B). Whether a deposit copy is sent electronically or physically depends upon its native format and the Library’s needs. Most works subject to the best edition requirement must be submitted in hard copy form, since in most cases the

Library’s best edition requirements specify a physical format. See 37 CFR 202.20(b)(1). This requirement does not preclude the use of eService to file an application or to pay the application fee. It is only when a work is published “solely in an electronic format” (*e.g.*, not in a physically tangible format) that “submission of the digital file[s] in exact first-publication form and content” is required. 37 CFR 202.20(b)(2)(iii)(B).

NIPRA and GLS also questioned the security of electronic deposit copies. NIPRA comment at 2; GLS comment at 1–2. The Copyright Office is unaware that the uploading of files to the Copyright Office via eService presents any security concerns. Of course, the security and integrity of all eService transactions are of paramount importance to the Copyright Office, and it has implemented robust security measures, which continue to be improved. However, the prior eService amendment only concerned the registration application, not the deposit copies which, in the majority of cases may continue to be sent separately in physical, tangible formats.

The Copyright Office carefully considered each of the comments discussed above and it has been persuaded that mandatory electronic application was not the most appropriate solution to its problems of underfunded paper applications. While the Office still feels strongly that electronic registration is vastly more efficient than paper registration, and redounds to the benefit of applicants as much as to the benefit of the Office, it has concluded that mandatory electronic registration was an over-general solution to the specific problems described. Its current proposal of a minimum deposit account balance requirement and optional automatic replenishment discussed herein is a more targeted response to the problems facing the Office.

#### **Comments Received in Response to Question Regarding the Continued Availability of Deposit Accounts**

In its July 15th, 2009, notice, the Copyright Office also sought public comment on whether it should cease offering deposit accounts altogether. It noted that, in an era when paper applications and payment via check were the norm, a separate, simplified deposit account system presented attractive efficiencies to frequent applicants and to the Office. It also pointed out that in an era of electronic registration and payment via corporate or other credit cards, the administrative costs of maintaining a separate deposit account system are no longer clearly

offset by its advantages; hence, the reason for the Office’s inquiry concerning abolition of the deposit account system.

While one commenter stated that there was “no apparent need” for the Copyright Office to continue offering deposit accounts, ASMP comment at 2, three other commenters argued that the elimination of deposit accounts would certainly be harmful. Perseus stated that deposit accounts are a “valuable and relevant service” that make it easier to track its copyright budget. Perseus comment at 1. NCDCCR, referencing its particular administrative issues as a state agency, said that deposit accounts offer significant efficiencies over individual payments. NCDCCR comment at 2. Finally, MPAA argued that corporate credit cards are not an effective alternative because they require spending controls that, if improperly monitored, could result in registration applications being delayed for insufficient funds. MPAA comment at 4.

The Copyright Office acknowledges that deposit accounts are a useful and efficient option for copyright owners who frequently use its services, including, but not limited to registration. Consequently, it will continue to offer deposit accounts for the foreseeable future, but reserves its prerogative to revisit the question of their utility and cost to the Office.

#### **New Proposal**

After considering the comments filed to the initial NPRM, the Copyright Office explored other options for addressing its problems with underfunded deposit accounts and is now proposing a number of administrative requirements to solve the problem. Specifically, the Office is proposing to amend its regulations to (1) Set the minimum level of activity required to hold a deposit account at 12 transactions per year; (2) require deposit account holders to maintain a minimum balance in that account; (3) mandate the closure of a deposit account the second time it is overdrawn; and (4) offer deposit account holders the option of automatic replenishment of their account via their bank account or credit card.

##### *1. Mandatory Minimum Deposit Account Activity and Balance*

The Copyright Office proposes to replace the words “a considerable amount of business” with “12 or more transactions a year” in section 37 CFR 201.6(b) in order to more clearly delineate the intended users of the deposit account program. The program’s

goal is to better serve rights-holders who engage in regular, multiple registrations and other transactions with the Copyright Office every year, and the proposed language reflects this intent with specificity.

The Office also proposes to institute a requirement that every deposit account holder must establish, in consultation with the Copyright Office, a minimum balance for its deposit account. Ideally, this balance will be the lowest amount a deposit account holder can have in his or her account and still be able to pay for their regular number of copyright registration applications. This amount will be set collaboratively so that both the account holder and the office are comfortable that it will be sufficient for the account holder's expected activity.

In the event a deposit account reaches its minimum balance, the Copyright Office will automatically notify the account holder, but take no further action. The minimum balance requirement is intended to act primarily as an indicator to the account holder that the account may need replenishment; going below a minimum balance does not in itself expose the account holder to any adverse consequences.

2. Consequences of Overdrawing a Deposit Account

The Copyright Office proposes that upon the second occasion that a deposit account is overdrawn—meaning the second time there is not enough money in an account to pay the fee for a submitted registration—the account will be closed. In practice this rule will only affect deposit account holders who use paper applications, because eService will not allow an application to be submitted without sufficient funds.

However, a deposit account holder whose account is closed because it has been overdrawn twice is not foreclosed from using a deposit account in the future. The deposit account holder may re-open a new account on the condition that it is funded through the automatic replenishment option. This condition is to protect the account holder from the risk of overdrawing again and to protect the Copyright Office from the risk of further suspended applications.

3. Voluntary Automatic Replenishment

The Copyright Office proposes to offer a voluntary automatic replenishment program to all deposit account holders. Under this program, the deposit account holder would provide pre-authorization to the Copyright Office to replenish the account from the account holder's credit card or bank account. Replenishment

would take place when the deposit account reaches its minimum balance, at which time the Office will also immediately notify the account holder of the replenishment. The account holder would determine the amount of replenishment above the pre-determined minimum balance at the time the account holder enters the program.

The Office seeks comment from the public on the following proposed regulations for governing deposit accounts maintained by the Copyright Office.

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend 37 CFR Ch. II as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.6(b) is revised to read as follows:

§ 201.6 Payment and refund of Copyright Office fees.

\* \* \* \* \*

(b) Deposit accounts. (1) Persons or firms having 12 or more transactions a year with the Copyright Office may prepay copyright expenses by establishing a Deposit Account. The Office and the Deposit Account holder will cooperatively determine an appropriate minimum balance for the Deposit Account, and the Office will automatically notify the Deposit Account holder when the account reaches that balance.

(2) The Copyright Office will close a Deposit Account the second time the Deposit Account holder overdraws his or her account. An account closed for this reason can be re-opened only if the holder elects to fund it through automatic replenishment.

(3) In order to ensure that a Deposit Account's funds are sufficiently maintained, a Deposit Account holder may authorize the Copyright Office to automatically replenish the account from the holder's bank account or credit card. The amount by which a Deposit Account will be replenished will be determined by the deposit account holder. Automatic replenishment will be triggered when the Deposit Account reaches the minimum level of funding established pursuant to section (b)(1), and Deposit Account holders will be

automatically notified of the replenishment.

\* \* \* \* \*

Dated: October 1, 2010.

Tanya Sandros,

Deputy General Counsel.

[FR Doc. 2010-25129 Filed 10-7-10; 8:45 am]

BILLING CODE 1410-30-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AN55

Reimbursement Offsets for Medical Care or Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning the reimbursement of medical care and services delivered to veterans for nonservice-connected conditions. The proposed rule would apply in situations where third-party payers are required to reimburse VA for costs related to care provided by VA to a veteran covered under the third-party payer's plan. This proposed rule would add a new section barring offsets by third-party payers and establishing a process by which third-party payers would submit a request for a refund on claims for which there is an alleged overpayment.

DATES: Comments must be received on or before December 7, 2010.

ADDRESSES: Written comments may be submitted through http://www.Regulations.gov; by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN55, Reimbursement Offsets for Medical Care or Services." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at http://www.Regulations.gov.

FOR FURTHER INFORMATION CONTACT: Anthony Norris, Program Analyst,

Business Operations, Chief Business Office (168), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-1593. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** Pursuant to 38 U.S.C. 1729, a third-party payer, such as a private medical insurer, has an obligation to pay the United States reasonable charges for the cost of medical care or services furnished to a veteran for a nonservice-connected disability when the veteran or the provider of the care or services would otherwise be eligible to receive payment for such medical care from the third-party payer. The obligation to pay is to the extent that the beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer if the beneficiary were to incur the costs on the beneficiary's own behalf. VA's authority under section 1729 is generally implemented in 38 CFR 17.101 through 17.105. However, the topic of addressing reimbursement offsets for medical care or services as proposed in this rulemaking is not covered by current VA regulations. As explained below in further detail, this proposed rule is consistent with regulations promulgated by the Department of Defense (DOD) in 32 CFR part 220. DOD's collection statute, 10 U.S.C. 1095, is similar to VA's collection statute, 38 U.S.C. 1729. Therefore, VA proposes to implement section 1729 in a manner substantially similar to DOD's implementation of section 1095. VA's implementation of these changes will provide clarity and uniformity in how third-party payers interact with both Departments.

As a matter of common business practice, third-party payers who are (or who believe that they are) owed a refund from VA based on an overpayment often recoup such money by unilaterally offsetting a future payment amount to VA. As a purchaser and provider of care, VA medical centers are subject to this practice of unilateral offsets. An offset occurs when the payer, alleging that it made an earlier overpayment to VA, reduces or takes back the alleged overpayment by withholding payment owed to VA on an unrelated debt transaction. In an attempt to recoup the overpayment, the payer seldom associates the reduced payment with the alleged overpaid claim. Third-party payer unilateral offsets disrupt VA accounting practices and present certain challenges to VA in managing third-party collections and evaluating account receivables for deficient payments. Further, such

practices eliminate VA's opportunity to validate the alleged overpayment and pursue proper review, if deemed appropriate given the circumstances.

This proposed rule would address third-payer offsets and certain policy exclusions and, consequently, improve VA's administration of account receivables and increase efficiency in maintaining third-party payer debts. The proposed rule would provide specific procedures that VA will use to recover payments from third-parties, consistent with our interpretation of our authority to recover payments from third-parties under section 1729. We believe that VA's statutory right to recovery of payment is not contingent upon a third-party payer's assertions regarding previous alleged overpayments and that the authority to compromise a claim rests with the government, not with the payer. Without the consent of the government, a third-party payer cannot compromise a claim premised on a separate disputed transaction. A request must be submitted and adjudicated separately. Several states prohibit third-party payer automatic offsets and require some form of notice and due process. We believe that VA should have protection from off-setting practices similar to that afforded individual states. Although section 1729 does not specifically address all of the issues that are addressed by this proposed rule, we believe that our proposed implementation of the statute is consistent with Congress' intent.

#### General Rule and Definitions

Proposed paragraph (a)(1) of the proposed rule would explain the general rule, discussed above, that VA has the authority to recover or collect reasonable charges from third-party payers for medical care or services provided for nonservice-connected disability to a veteran who is also covered by the third-party payer's plan. We also state that our right to recover or collect is limited to "the extent that the beneficiary or a non-government provider of care or services would be eligible to receive reimbursement or indemnification from the third-party payer if the beneficiary were to incur the costs on the beneficiary's own behalf." This limitation is statutory, because section 1729 states that VA's right applies only "to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third-party if the care or services had not been furnished by a department or agency of the United States."

Proposed paragraph (a)(1) would essentially restate the statute.

Proposed paragraph (a)(2) would provide several definitions applicable to this section. These definitions incorporate and interpret the statutory definitions of *health-plan contract* and *third-party* in section 1729(i). Also, as noted above, this proposed rule would be based upon and consistent with DOD's collection regulations in 32 CFR part 220. We propose to adopt, with only minor non-substantive changes, certain definitions promulgated by DOD in 32 CFR 220.14. Specifically, we propose to define the following terms consistent with the same or similar terms in § 220.14: *Automobile liability insurance*, *health-plan contract*, *Medicare supplemental insurance plan*, *No-fault insurance*, *participating provider organization*, and *third-party payer*. We intend that these definitions will clearly state the meaning of these terms as commonly used in the insurance industry.

#### Calculating Reasonable Charges

Proposed paragraph (b)(1) would explain that "reasonable charges" for the purposes of section 1729 are calculated using the regulatory method applicable to the particular charge as prescribed in current 38 CFR 17.101. We intend no substantive change regarding VA's reasonable charges methodology and propose this provision only to provide notice that VA would bill third parties a "reasonable charge" as determined under current regulations for its services.

Proposed paragraph (b)(2) would explain that, "If the third-party payer's plan includes a requirement for a deductible or copayment by the beneficiary of the plan, VA will recover or collect reasonable charges less that deductible or copayment amount." This merely restates the statutory requirement in section 1729(a)(3)(B) that the collectible or recoverable amount must be reduced by any deductible or copayment or both.

#### VA's Right To Recover or Collect Is Exclusive

Proposed paragraph (c) would establish that VA's right to recover or collect under this section is exclusive and prescribe that "[t]he only way for a third-party payer to satisfy its obligation under this section is to pay the VA facility or other authorized representative of the United States. Payment by a third-party payer to the beneficiary does not satisfy the third-party's obligation under this section." This statement would address confusion on the part of third-party payers

regarding whether VA permits offsetting, and explain that payment must be provided to VA and not to any other party. For example, this provision would proscribe third-party payments made directly to the beneficiary for care or service provided in or through a VA medical facility. Section 1729 provides to VA (and not to a third-party beneficiary) the right to recover or collect payments, as we have explained above. Accordingly, payments to anyone other than VA, including payments made by a third-party directly to the patient, cannot satisfy 1729.

Proposed paragraph (c)(1) would allow the United States to file a claim for payment or institute and prosecute legal proceedings against a third-party payer, within six years, to enforce a right of the United States under 38 U.S.C. 1729 and this section. This proposed provision would restate section 1729(b)(2).

Proposed paragraph (c)(2) would restate the United States' right to compromise, settle or waive a claim under the proposed rule, consistent with section 1729(c)(1).

Proposed paragraph (c)(3) would list the statutory authority for the remedies available to the United States in collection actions under section 1729. These remedies include administrative offset and other means to collect.

Pursuant to section 1729(a) and (f), the United States has a right to collect, consistent with the statutory terms, the reasonable charges for medical care and services from a third-party payer. This right is not contingent upon a third-party payer's unsubstantiated assertions regarding previous alleged overpayments, rather a third-party payer must provide information sufficient for VA to determine that an overpayment occurred. Under section 1729(c)(1) and 38 CFR part 2, the authority to compromise, settle, or waive a claim rests with the government, not with the payer.

Therefore, proposed paragraph (c)(4) would prescribe that, without the consent of the government, a third-party payer cannot unilaterally compromise or settle a claim premised on a separate disputed transaction. It would also prohibit offsetting and reducing subsequent payments. A request for refund is a claim against the United States and must be submitted and adjudicated separately.

#### **Assignment of Benefits or Other Submission by Beneficiary Not Necessary**

Proposed paragraph (d) would address whether beneficiaries must execute an assignment of benefits form

for the third-party payer to pay. No such form would be needed because, under section 1729, the right to collect is already assigned to the government. Unless the patient actually incurs some expenses for the hospital care provided in or through a VA medical facility, the patient likely has no benefit to assign under the terms of the third-party payer's plan. Thus, in general, assuming that the patient has made no payment for the services received, the third-party payer need only recognize that its sole obligation for payment is to the United States and that this obligation is not dependent upon any assignment of benefits. Proposed paragraph (d) would reflect this.

#### **Preemption of Conflicting State Laws and Contracts**

Proposed paragraph (e) would restate section 1729(f) and prescribe that any law or regulation of a State or political subdivision thereof and any provision of any contract or agreement that purports to establish any requirement on a third-party payer that would prevent recovery or collection by the United States will have no force or effect on a third-party payer's responsibility under section 1729 or proposed § 17.106.

#### **Impermissible Exclusions by Third-Party Payers**

Proposed paragraph (f) would implement section 1729(f), which states: "[N]o provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States." Proposed paragraph (f)(1) would restate this statutory requirement.

Proposed paragraph (f)(2) would establish several general rules derived from the statutory requirements. These general rules would help interested parties resolve issues that may arise in the course of collection actions and are intended to generally clarify VA's interpretation of its authority under section 1729.

The first general rule, in proposed paragraph (f)(2)(i), would state one of the clear mandates of section 1729(f): Express exclusions of limitations inconsistent with 38 U.S.C. 1729 are inoperative under Federal law. We provide, for clarification, that an example of an impermissible exclusion under this paragraph is a provision that purports to disallow payment for services provided by a government entity or paid for by a government program.

Proposed paragraph (f)(2)(ii) would prescribe that no objection, precondition or limitation may be asserted that defeats the statutory purpose of collecting from third-party

payers. This would extend the first general rule to cover situations in which a third-party payer's plan might at first not appear to treat VA medical facilities less favorably, but nonetheless produces that effect. This interpretation is based on the statutory formulation of the prohibition in terms of provisions that have the effect of excluding or limiting payment. A clarifying example is provided in the proposed text, and explains that a third-party payer cannot refuse or reduce payment based on a provision in the third-party payer's plan that purports to disallow payment when the beneficiary has no legal obligation to pay. Such an exclusion is impermissible under section 1729(a)(1), which provides that the government's right to collect is to the extent the beneficiary or nongovernment provider would receive reimbursement.

A basic statutory characteristic of VA health care and services is that veterans have no obligation to pay (except the nominal co-payments for medication required by 38 U.S.C. 1722A). Recognizing this, Congress concluded that the government collects from third parties as if the veteran has an obligation to pay. Thus, we interpret section 1729 to mean that the fact that a veteran has no actual obligation is irrelevant. The same conclusion would apply to any other exclusion in a third-party plan that is expressed in similar language, such as that no charge would be made if the person had no health insurance.

Proposed paragraph (f)(2)(iii) would restate statutory requirements and prescribe that third-party payers may not treat claims arising from services provided in or through VA medical facilities less favorably than they treat claims arising from services provided in other hospitals. Under section 1729(f), VA has the right to collect reasonable charges from a third-party payer to the extent that the third-party payer would pay for care or services furnished by providers other than VA. The general rule disallowing less favorable treatment would provide a useful method of analyzing situations to assure compliance with the statute.

The proposed clarifying example concerns an employer-sponsored health plan that purports to make ineligible for coverage individuals who are provided medical care and services in or through a VA medical facility. Such an exclusion would clearly have the effect of treating VA medical facilities less favorably than other hospitals.

Proposed paragraph (f)(2)(iv) would prescribe that payments cannot be refused or reduced based on the lack of a participation agreement or the absence

of a specific contractual relationship (referred to as “privity of contract”) between a third-party payer and VA or a VA medical facility. This further explains the general rule that disallows preconditions that are inconsistent with the basic nature of medical care and services provided to veterans in or through VA medical facilities.

We note that some VA medical facilities have understandings or agreements with some third-party payers concerning claims procedures for the purpose of facilitating administration of health care and collection of payments. Such understandings or agreements would not offend our rule as long as they do not purport to be preconditions to complying with statutory and regulatory requirements.

Proposed paragraph (f)(2)(v) and (vi) would set forth rules relating to Medicare carve-out and Medicare secondary payer provisions. The usual procedure for Medicare supplemental carriers is to accept claims only after the primary claim has been processed and paid by Medicare. In this way, the remaining liability, which becomes the responsibility of the supplemental policy, is apparent. However, a different process is required in section 1729 cases because, under section 1729(i)(1)(B)(i), there is no claim submitted to Medicare. Instead, the third-party payer is statutorily required to accept the claim as involving Medicare covered services from an authorized provider. Supplemental insurers do not have a statutory entitlement to a particular government adjudicatory process.

Proposed paragraph (f)(2)(vii) would bar Health Maintenance Organizations (HMOs) from excluding claims or refusing to certify emergent and urgent services provided within the HMO’s service area or otherwise covered non-emergency services provided out of the HMO’s service area. In addition, it would provide that opt-out or point-of-service options available under an HMO plan may not exclude services otherwise payable under section 1729 or this section. We interpret section 1729 to mean that HMO plans must pay only to the extent that HMO plans generally cover services (e.g., emergencies) provided by health care facilities not affiliated with the HMO. Further, we interpret the statute to mean that HMO plans that have a point-of-service option are required to pay VA the same amount that would be paid under the plan to nongovernment providers.

#### Records

Proposed paragraph (g) would restate section 1729(h), which requires that VA

medical facilities make available for inspection and review to representatives of third-party payers appropriate health care records of patients. However, the records would be made available only to verify the care and services provided by VA for which payment, recovery, or collection is sought, and to verify that such care or services met the permissible criteria under the health plan involved. In light of privacy concerns, VA will not provide any other records maintained by a VA medical facility to a third-party payer.

#### Paperwork Reduction Act

This document contains no new collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

#### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would affect mainly large insurance companies. This proposed rule might have an insignificant impact on a few small entities that do an inconsequential amount of their business with VA. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is also exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### Executive Order 12866

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

legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

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

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 10, 2010, for publication.

#### List of Subjects in 38 CFR Part 17

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

programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: October 4, 2010.

**Robert C. McFetridge,**

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

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 17 as follows:

**PART 17—MEDICAL**

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

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

**§ 17.106 [Redesignated as § 17.107]**

2. Redesignate § 17.106 as § 17.107.

3. Add new § 17.106 before the undesignated center heading “Disciplinary Control of Beneficiaries Receiving Hospital, Domiciliary or Nursing Home Care” to read as follows:

**§ 17.106 Third party claims for refunds based on amounts previously paid to the Department of Veterans Affairs (overpayments).**

(a)(1) *General rule.* VA has the right to recover or collect reasonable charges from a third-party payer for medical care and services provided for a nonservice-connected disability in or through any VA facility to a veteran who is also a beneficiary under the third-party payer’s plan. VA’s right to recover or collect is limited to the extent that the beneficiary or a non-government provider of care or services would be eligible to receive reimbursement or indemnification from the third-party payer if the beneficiary were to incur the costs on the beneficiary’s own behalf.

(2) *Definitions.* For the purposes of this section:

(i) *Automobile liability insurance* means insurance against legal liability for health and medical expenses resulting from personal injuries arising from operation of a motor vehicle. Automobile liability insurance includes:

(A) Circumstances in which liability benefits are paid to an injured party only when the insured party’s tortious acts are the cause of the injuries; and

(B) Uninsured and underinsured coverage, in which there is a third-party tortfeasor who caused the injuries (i.e., benefits are not paid on a no-fault basis), but the insured party is not the tortfeasor.

(ii) *Health-plan contract* means any plan, policy, program, contract, or

liability arrangement that provides compensation, coverage, or indemnification for expenses incurred by a beneficiary for medical care or services, items, products, and supplies. It includes but is not limited to:

(A) Any plan offered by an insurer, reinsurer, employer, corporation, organization, trust, organized health care group or other entity.

(B) Any plan for which the beneficiary pays a premium to an issuing agent as well as any plan to which the beneficiary is entitled as a result of employment or membership in or association with an organization or group.

(C) Any Employee Retirement Income and Security Act (ERISA) plan.

(D) Any Multiple Employer Trust (MET).

(E) Any Multiple Employer Welfare Arrangement (MEWA).

(F) Any Health Maintenance Organization (HMO) plan, including any such plan with a point-of-service provision or option.

(G) Any individual practice association (IPA) plan.

(H) Any exclusive provider organization (EPO) plan.

(I) Any physician hospital organization (PHO) plan.

(J) Any integrated delivery system (IDS) plan.

(K) Any management service organization (MSO) plan.

(L) Any group or individual medical services account.

(M) Any participating provider organization (PPO) plan or any PPO provision or option of any third-party payer plan.

(N) Any Medicare supplemental insurance plan.

(O) Any automobile liability insurance plan.

(P) Any no fault insurance plan, including any personal injury protection plan or medical payments benefit plan for personal injuries arising from the operation of a motor vehicle.

(iii) *Medicare supplemental insurance plan* means an insurance, medical service or health-plan contract primarily for the purpose of supplementing an eligible person’s benefit under Medicare. The term has the same meaning as “Medicare supplemental policy” in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395, *et seq.*) and 42 CFR part 403, subpart B.

(iv) *No-fault insurance* means an insurance contract providing compensation for medical expenses relating to personal injury arising from the operation of a motor vehicle in which the compensation is not premised on who may have been

responsible for causing such injury. No-fault insurance includes personal injury protection and medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

(v) *Participating provider organization* means any arrangement in a third-party payer plan under which coverage is limited to services provided by a select group of providers who are members of the PPO or incentives (for example, reduced copayments) are provided for beneficiaries under the plan to receive health care services from the members of the PPO rather than from other providers who, although authorized to be paid, are not included in the PPO. However, a PPO does not include any organization that is recognized as a health maintenance organization.

(vi) *Third-party payer* means an entity, other than the person who received the medical care or services at issue (first party) and VA who provided the care or services (second party), responsible for the payment of medical expenses on behalf of a person through insurance, agreement or contract. This term includes, but is not limited to the following:

(A) State and local governments that provide such plans other than Medicaid.

(B) Insurance underwriters or carriers.

(C) Private employers or employer groups offering self-insured or partially self-insured medical service or health plans.

(D) Automobile liability insurance underwriter or carrier.

(E) No fault insurance underwriter or carrier.

(F) Workers’ compensation program or plan sponsor, underwriter, carrier, or self-insurer.

(G) Any other plan or program that is designed to provide compensation or coverage for expenses incurred by a beneficiary for healthcare services or products.

(H) A third-party administrator.

(b) *Calculating reasonable charges.*

(1) The “reasonable charges” subject to recovery or collection by VA under this section are calculated using the applicable method for such charges established by VA in 38 CFR 17.101.

(2) If the third-party payer’s plan includes a requirement for a deductible or copayment by the beneficiary of the plan, VA will recover or collect reasonable charges less that deductible or copayment amount.

(c) *VA’s right to recover or collect is exclusive.* The only way for a third-party payer to satisfy its obligation under this section is to pay the VA facility or other authorized

representative of the United States. Payment by a third-party payer to the beneficiary does not satisfy the third-party's obligation under this section.

(1) Pursuant to 38 U.S.C. 1729(b)(2), the United States may file a claim or institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under 38 U.S.C. 1729 and this section. Such filing or proceedings must be instituted within six years after the last day of the provision of the medical care or services for which recovery or collection is sought.

(2) An authorized representative of the United States may compromise, settle or waive a claim of the United States under this section.

(3) The remedies authorized for collection of indebtedness due the United States under 31 U.S.C. 3701, *et seq.*, 4 CFR parts 101–104, 28 CFR part 11, 31 CFR part 900, and 38 CFR part 1, are available to effect collections under this section.

(4) A third-party payer may not, without the consent of a U.S. Government official authorized to take action under 38 U.S.C. 1729 and this part, offset or reduce any payment due under 38 U.S.C. 1729 or this part on the grounds that the payer considers itself due a refund from a VA facility. A written request for a refund must be submitted and adjudicated separately from any other claims submitted to the third-party payer under 38 U.S.C. 1729 or this part.

(d) *Assignment of benefits or other submission by beneficiary not necessary.* The obligation of the third-party payer to pay is not dependent upon the beneficiary executing an assignment of benefits to the United States. Nor is the obligation to pay dependent upon any other submission by the beneficiary to the third-party payer, including any claim or appeal. In any case in which VA makes a claim, appeal, representation, or other filing under the authority of this part, any procedural requirement in any third-party payer plan for the beneficiary of such plan to make the claim, appeal, representation, or other filing must be deemed to be satisfied. A copy of the completed VA Form 10–10EZ or VA Form 10–10EZR that includes a veteran's insurance declaration will be provided to payers upon request, in lieu of a claimant's statement or coordination of benefits form.

(e) *Preemption of conflicting State laws and contracts.* Any provision of a law or regulation of a State or political subdivision thereof and any provision of any contract or agreement that purports to establish any requirement on a third-

party payer that would have the effect of excluding from coverage or limiting payment for any medical care or services for which payment by the third-party payer under 38 U.S.C. 1729 or this part is required, is preempted by 38 U.S.C. 1729(f) and shall have no force or effect in connection with the third-party payer's obligations under 38 U.S.C. 1729 or this part.

(f) *Impermissible exclusions by third-party payers.* (1) Statutory requirement. Under 38 U.S.C. 1729(f), no provision of any third-party payer's plan having the effect of excluding from coverage or limiting payment for certain care if that care is provided in or through any VA facility shall operate to prevent collection by the United States.

(2) General rules. The following are general rules for the administration of 38 U.S.C. 1729 and this part, with examples provided for clarification. The examples provided are not exclusive. A third-party payer may not reduce, offset, or request a refund for payments made to VA under the following conditions:

(i) Express exclusions or limitations in third-party payer plans that are inconsistent with 38 U.S.C. 1729 are inoperative. For example, a provision in a third-party payer's plan that purports to disallow or limit payment for services provided by a government entity or paid for by a government program (or similar exclusion) is not a permissible ground for refusing or reducing third-party payment.

(ii) No objection, precondition or limitation may be asserted that defeats the statutory purpose of collecting from third-party payers. For example, a provision in a third-party payer's plan that purports to disallow or limit payment for services for which the patient has no obligation to pay (or similar exclusion) is not a permissible ground for refusing or reducing third-party payment.

(iii) Third-party payers may not treat claims arising from services provided in or through VA facilities less favorably than they treat claims arising from services provided in other hospitals. For example, no provision of an employer sponsored program or plan that purports to make ineligible for coverage individuals who are eligible to receive VA medical care and services shall be permissible.

(iv) The lack of a participation agreement or the absence of privity of contract between a third-party payer and VA is not a permissible ground for refusing or reducing third-party payment.

(v) A provision in a third-party payer plan, other than a Medicare supplemental plan, that seeks to make

Medicare the primary payer and the plan the secondary payer or that would operate to carve out of the plan's coverage an amount equivalent to the Medicare payment that would be made if the services were provided by a provider to whom payment would be made under Part A or Part B of Medicare is not a permissible ground for refusing or reducing payment as the primary payer to VA by the third-party payer unless the provision expressly disallows payment as the primary payer to all providers to whom payment would not be made under Medicare (including payment under Part A, Part B, a Medicare HMO, or a Medicare Advantage plan).

(vi) A third-party payer may not refuse or reduce third-party payment to VA because VA's claim form did not report hospital acquired conditions (HAC) or present on admission conditions (POA). VA is exempt from the Medicare Inpatient prospective payment system and the Medicare rules for reporting POA or HAC information to third-party payers.

(vii) Health Maintenance Organizations (HMOs) may not exclude claims or refuse to certify emergent and urgent services provided within the HMO's service area or otherwise covered non-emergency services provided out of the HMO's service area. In addition, opt-out or point-of-service options available under an HMO plan may not exclude services otherwise payable under 38 U.S.C. 1729 or this part.

(g) *Records.* Pursuant to 38 U.S.C. 1729(h), VA shall make available for inspection and review to representatives of third-party payers, from which the United States seeks payment, recovery, or collection under 38 U.S.C. 1729, appropriate health care records (or copies of such records) of patients. However, the appropriate records will be made available only for the purposes of verifying the care and services which are the subject of the claim(s) for payment under 38 U.S.C. 1729, and for verifying that the care and services met the permissible criteria of the terms and conditions of the third-party payer's plan. Patient care records will not be made available under any other circumstances to any other entity. VA will not make available to a third-party payer any other patient or VA records.

(Authority: 31 U.S.C. 3711, 38 U.S.C. 501, 1729, 42 U.S.C. 2651)

[FR Doc. 2010–25363 Filed 10–7–10; 8:45 am]

BILLING CODE 8320–01–P

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2010-0663-201037; FRL-9212-7]

**Approval and Promulgation of  
Implementation Plans; Tennessee:  
Approval of Section 110(a)(1)  
Maintenance Plan for the 1997 8-Hour  
Ozone Standards for the Nashville, TN  
Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a draft revision to the Tennessee State Implementation Plan (SIP), submitted to EPA on August 3, 2010, for parallel processing. The proposed revision modifies Tennessee's SIP to address the required maintenance plan for the 1997 8-hour ozone standards for the Nashville, Tennessee 1997 8-hour ozone maintenance area, hereafter referred to as "the Nashville Area." The Nashville Area is comprised of Davidson, Rutherford, Sumner, Williamson, and Wilson Counties in their entireties. This maintenance plan was submitted to EPA by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), to ensure the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2018 in the Nashville Area. EPA is approving the SIP revision pursuant to section 110 of the Clean Air Act (CAA). This maintenance plan meets all the statutory and regulatory requirements, and is consistent with EPA's guidance. **DATES:** Comments must be received on or before November 8, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2010-0663, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail:* [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).
3. *Fax:* (404) 562-9019.
4. *Mail:* EPA-R04-OAR-2010-0663, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency,

Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2010-0663. 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 through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, 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 in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Royce Dansby-Sparks, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9187. Mr. Dansby-Sparks can also be reached via electronic mail at [dansby-sparks.royce@epa.gov](mailto:dansby-sparks.royce@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Background
- II. EPA's Analysis of Tennessee's Submittal
- III. Proposed Action
- IV. Statutory and Executive order Reviews

**I. Background**

In accordance with the CAA, the Nashville Area was designated nonattainment for the 1-hour ozone NAAQS on November 6, 1991, 56 FR 56694 (effective January 6, 1992, 60 FR 7124). On November 14, 2004, the State of Tennessee, through the TDEC, submitted a request to redesignate the Nashville Area to attainment for the 1-hour ozone NAAQS (*see* 61 FR 55903). Subsequently on August 9, 1995, and January 19, 1996, Tennessee submitted supplementary information which included revised contingency measures and emission projections. Included with the 1-hour ozone redesignation request, Tennessee submitted the required 1-hour ozone monitoring data and maintenance plan ensuring the Area would remain in attainment for the 1-hour ozone NAAQS for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plan submitted by Tennessee followed EPA guidance for maintenance areas, subject to section 175A of the CAA.

On October 30, 1996, EPA approved Tennessee's request to redesignate the Nashville Area to attainment for the 1-hour ozone NAAQS (61 FR 55903). The maintenance plan for the Area became effective on October 30, 1996. Tennessee later updated the maintenance plan in accordance with section 175(A)(b) on August 10, 2005, to extend the maintenance plan to cover

additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of the Area to attainment. EPA approved Tennessee's maintenance plan update for the Nashville Area on November 1, 2005 (see 70 FR 65838).

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase 1 Rule for implementation of the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase 1 Rule), ultimately revoking the 1-hour ozone NAAQS. The Nashville Area, however, was still required to fulfill requirements under the 1-hour ozone NAAQS due to its participation in an Early Action Compact (EAC). For areas participating in an EAC, the effective designation date for the 1997 8-hour ozone NAAQS was deferred until December 31, 2006, in a final action published by EPA on August 19, 2005 (70 FR 50988) and later extended to April 15, 2008 (71 FR 69022) for most of the EAC Areas, including Nashville, so long as the Area continued to meet milestone requirements. Therefore, the requirement for an attainment area to submit a 10-year maintenance plan under 110(a)(1) of the CAA and the Phase 1 Rule was also postponed until the Area was effectively designated for the 1997 8-hour ozone NAAQS. The Nashville Area was later designated as attainment for the 1997 8-hour ozone NAAQS, effective April 15, 2008, with the 1-hour ozone requirements no longer effective on April 15, 2009 (73 FR 17897). The attainment area was consequently required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase 1 Rule.

On May 20, 2005, EPA issued guidance providing information on how a state might fulfill the maintenance plan obligation established by the CAA and the Phase 1 Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005, hereafter referred to as the "Wegman Memorandum"). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Phase 1 Rule for the 1997 8-hour ozone NAAQS. *South Coast Air Quality Management District (SQAMD) v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). The Court vacated those portions of the Phase 1 Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 in lieu of Subpart 2 (of part D of the CAA), among other portions.

The Court's decision does not alter any requirements under the Phase 1 Rule for section 110(a)(1) maintenance plans.

EPA is proposing to take action to approve Tennessee's August 3, 2010, SIP revision, submitted for parallel processing, which satisfy CAA section 110(a)(1) CAA requirements for a plan providing for maintenance of the 1997 8-hour ozone NAAQS in the Nashville Area.

## II. EPA's Analysis of Tennessee's Submittal

On August 3, 2010, the State of Tennessee, through the TDEC and the Metro Nashville/Davidson County Pollution Control Division Office, submitted a proposed SIP revision for parallel processing containing the 1997 8-hour ozone maintenance plan for the Nashville Area as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase 1 Rule (see 40 CFR 51.905(a)(4)). The purpose of the plan is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS until 2018 for this attainment area.

The August 3, 2010, SIP revision is not yet state-effective, therefore, Tennessee has requested that EPA "parallel process" the SIP revision. Under this procedure, the Regional Office works closely with the state while developing new or revised regulations. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action, and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the **Federal Register** during approximately the same time frame that the state is holding its public hearing. The state and EPA then provide for public comment periods on both the state and federal actions.

After Tennessee submits the formal state-effective SIP revision request (including a response to all public comments raised during the state's public participation process, and the 1997 8-hour ozone 110(a)(1) maintenance plan), EPA will prepare a final rulemaking notice for the SIP revision. If Tennessee's rulemaking to address the 1997 8-hour ozone 110(a)(1) maintenance plan contains changes which occur after EPA's notice of proposed rulemaking, such change must be described in EPA's final rulemaking action. If Tennessee's changes are significant, EPA must decide whether it is appropriate to repropose action on the state's changes to their submittal to address the 1997 8-hour ozone 110(a)(1) maintenance plan.

As required, the plan provides for continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Nashville Area for at least 10 years from the effective date of this Area's designation as attainment for the 1997 8-hour ozone NAAQS. The plan also includes components illustrating how the Area will continue attainment of the 1997 8-hour ozone NAAQS, and provides contingency measures. The Section 110(a)(1) plan components are discussed below for the Nashville Area.

(a) *Attainment Inventory*. In order to demonstrate maintenance in the aforementioned area, Tennessee developed comprehensive inventories of volatile organic compounds (VOC) and nitrogen oxide (NO<sub>x</sub>) emissions from area, point, on-road mobile, non-road mobile, and aircraft, locomotive, and commercial marine (ALM) sources using 2007 as the base year. According to the May 20, 2005, guidance, a state may use one of the three years for which the 1997 8-hour attainment designation was based (2001, 2002, and 2003) as their attainment inventory base year. However, due to the fact that the Nashville Area was an EAC area, the effective date of designation was deferred to April 15, 2008, and therefore consideration of a later base year of 2005, 2006, or 2007 was required for the purpose of an emissions inventory. For the purpose of this maintenance plan, Tennessee chose 2007 as the attainment level emissions base year for the Nashville Area. The state's submittal contains the detailed inventory data and summaries by source category for the Nashville Area.

In accordance with Consolidated Emissions Reporting Rule requirements (CERR), Tennessee compiles a statewide emissions inventory for point sources on an annual basis. On-road mobile emissions of VOC and NO<sub>x</sub> were estimated using MOBILE6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived using the U.S. EPA's NONROAD 2008 model. ALM emissions were primarily estimated based on EPA's National Emissions Inventory.

In projecting data for the maintenance year 2018 emissions inventories, Tennessee used several methods to project data from the base year 2007 to the interim years 2010, 2014, and 2018. These projected inventories were developed using EPA-approved technologies and methodologies including the Southeastern Emissions Modeling, Analysis, and Planning methodology. Projected point, area, and non-road mobile source inventories were developed using the 2007 base year inventories and economic growth

factors from EPA's Economic Growth and Analysis System.

The following tables provide VOC and NO<sub>x</sub> emissions data for the 2007 base attainment year inventories, as well as projected VOC and NO<sub>x</sub> emissions

inventory data for 2010, 2014, and 2018. The Phase 1 Rule provides that the 10-year maintenance period begin as of the effective date of designation for the 1997 8-hour NAAQS for the Area. The

designations for the 13 EAC attainment areas (of which Nashville was one) were effective in April 2008 so the maintenance period must end no earlier than 2018.

TABLE 1—2007 VOC AND NO<sub>x</sub> BASE YEAR EMISSIONS INVENTORY FOR THE NASHVILLE AREA [Tons/day]

County	Point	Area	Onroad	Nonroad	ALM	Total *
—NO <sub>x</sub> emissions—						
Davidson .....	11.52	0.62	45.70	9.57	3.35	70.76
Rutherford .....	0.33	2.79	17.29	5.45	1.26	27.11
Sumner .....	18.74	0.24	6.07	2.57	0.78	28.41
Williamson .....	0.06	0.86	12.60	3.58	1.36	18.47
Wilson .....	0.00	1.23	13.12	2.19	0.15	16.68
Total * .....	30.65	5.75	94.79	23.36	6.90	161.44

County	Point	Area	Onroad	Nonroad	ALM	Total
—VOC emissions—						
Davidson .....	5.05	20.98	17.73	15.06	0.60	59.42
Rutherford .....	5.97	11.02	6.65	4.44	0.20	28.28
Sumner .....	0.97	6.78	3.53	2.68	0.08	14.05
Williamson .....	0.31	6.00	5.05	2.64	0.07	14.06
Wilson .....	0.00	4.88	3.32	4.80	0.05	13.04
Total * .....	12.31	49.66	36.27	29.62	1.00	128.85

\* Due to conventional rounding rules, emission totals listed in Tables 1 and 2 may not reflect the absolute mathematical totals.

TABLE 2—PROJECTED VOC AND NO<sub>x</sub> EMISSIONS INVENTORY FOR THE NASHVILLE AREA [Tons/day]

Source type	2007	2010	2014	2018
—NO <sub>x</sub> emissions—				
Point .....	30.65	30.33	31.59	31.61
Area .....	5.75	5.88	6.07	6.25
Onroad .....	94.79	76.72	55.79	28.53
Nonroad .....	23.36	21.08	16.38	12.37
ALM .....	6.90	6.93	7.12	7.36
Total * .....	161.44	140.93	116.95	86.11
—VOC emissions—				
Point .....	12.31	12.49	13.18	14.50
Area .....	49.66	51.48	54.14	57.77
Onroad .....	36.27	30.43	22.13	14.84
Nonroad .....	29.62	25.87	20.27	16.70
ALM .....	1.00	1.07	1.17	1.27
Total * .....	128.85	121.34	110.88	105.07

\* Due to conventional rounding rules, emission totals listed in Tables 1 and 2 may not reflect the absolute mathematical totals.

As shown in Table 2 above, the Nashville Area is projected to steadily decrease its total VOC and NO<sub>x</sub> emissions from the base year of 2007 to the maintenance year of 2018. This VOC and NO<sub>x</sub> emission decrease demonstrates continued attainment/maintenance of the 1997 8-hour ozone NAAQS for ten years from 2008 (i.e., the

year the Area was effectively designated attainment for the 1997 8-hour ozone NAAQS) as required by the CAA and Phase 1 Rule. NO<sub>x</sub> and VOC emissions are expected to decrease approximately 47 and 18 percent, respectively, from the attainment base year to 2018. These projected reductions of ozone precursors ensure continued

maintenance of the 1997 8-hour ozone NAAQS. The attainment inventories submitted by Tennessee for this Area are consistent with the criteria as discussed in the Wegman Memorandum. EPA finds that the future emission levels for the projected years 2010, 2014, and 2018, are expected to be less than the attainment level emissions in 2007. In

the event that future 1997 8-hour ozone monitoring values in the Area are found to violate the 1997 8-hour ozone NAAQS, the contingency plan section of the Area's maintenance plan includes measures that will be promptly implemented to ensure that the Area returns to maintenance of the 1997 ozone NAAQS. Please see section (d) Contingency Plan, below, for additional information related to the contingency measures in the maintenance plan.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in attainment with the 1997 8-hour ozone standards for the 10-year period following the effective date of designation as unclassifiable/attainment. The required end projection year for the Nashville Area is 2018. As discussed in section (a) Attainment Inventory above, Tennessee identified the level of ozone-forming emissions that were consistent with attainment of the NAAQS for ozone in 2007. Tennessee projected VOC and NO<sub>x</sub> emissions for 2010, 2014, and 2018. EPA finds that the future emissions levels in these years are expected to be below the emissions levels in 2007 in the Nashville Area.

Tennessee's SIP revision for the maintenance plan for the Nashville Area also relies on the closure of large parts of the operations of E.I. du Pont Nemours and Company located in Davidson County resulting in significant reductions of both VOC and NO<sub>x</sub>. The Nashville Attainment Area is also benefiting from the following reductions that are occurring in other states in the Southeast: (1) North Carolina Clean Smokestacks Act, (2) Atlanta/Northern Kentucky/Birmingham 1-hour SIPs, (3) NO<sub>x</sub> reasonably available control technology in 1997 8-hour ozone nonattainment area SIP, and (4) implementation of NO<sub>x</sub> SIP Call Phase 1 in southeastern states. Moreover, despite the legal status of the Clean Air Interstate Rule (CAIR) as remanded, many facilities have already installed or are continuing with plans to install emission controls that may benefit the Nashville Area.

(c) *Consideration of CAIR.* The NO<sub>x</sub> SIP Call requires states to make significant, specific emissions reductions. It also provided a mechanism, the NO<sub>x</sub> Budget Trading Program, which states could use to achieve those reductions. When EPA promulgated CAIR, it discontinued (starting in 2009) the NO<sub>x</sub> Budget Trading Program, 40 CFR 51.121(r), but created another mechanism—the CAIR ozone season trading program—which states could use to meet their SIP Call

obligations (70 FR 25289–90). EPA notes that a number of states, when submitting SIP revisions to require sources to participate in the CAIR ozone season trading program, removed the SIP provisions that required sources to participate in the NO<sub>x</sub> Budget Trading Program. In addition, because the provisions of CAIR, including the ozone season NO<sub>x</sub> trading program, remain in place during the remand (*North Carolina v. EPA*, 550 F.3d 1176 (DC Cir. 2008)), EPA is not currently administering the NO<sub>x</sub> Budget Trading Program. Nonetheless, all states, regardless of the current status of their regulations that previously required participation in the NO<sub>x</sub> Budget Trading Program, will remain subject to all of the requirements in the NO<sub>x</sub> SIP Call, even if the existing CAIR ozone season trading program is withdrawn or altered. In addition, the anti-backsliding provisions of 40 CFR 51.905(f) specifically provide that the provisions of the NO<sub>x</sub> SIP Call, including the statewide NO<sub>x</sub> emission budgets, continue to apply after revocation of the 1-hour standards.

All NO<sub>x</sub> SIP Call states have SIPs that currently satisfy their obligations under the SIP Call, the SIP Call reduction requirements are being met, and EPA will continue to enforce the requirements of the NO<sub>x</sub> SIP Call even after any response to the CAIR remand. For these reasons, EPA believes that regardless of the status of the CAIR program, the NO<sub>x</sub> SIP call requirements can be relied upon in demonstrating maintenance.

(d) *Ambient Air Quality Monitoring.* The table below shows design values<sup>1</sup> for the Nashville Area. The ambient ozone monitoring data were collected at sites that were selected with assistance from EPA and are considered representative of the areas of highest concentration. The State of Tennessee and Metro Nashville/Davidson County Pollution Control Division Office will continue to conduct ambient air quality monitoring programs for ozone in their respective areas. All monitoring programs will continue in accordance with applicable EPA monitoring requirements contained in 40 CFR part 58. Any modification to the ambient air monitoring network will be

<sup>1</sup> The air quality design value at a monitoring site is defined as the concentration that when reduced to the level of the standard ensures that the site meets the standard. For a concentration-based standard, the air quality design value is simply the standard-related test statistic. Thus, for the primary and secondary 1997 8-hour ozone standards, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration is also the air quality design value for the site. 40 CFR part 50, appendix I, section 3.

accomplished through close consultation with EPA. The Nashville Area has not had a monitor design value that exceeded the 1997 8-hour NAAQS since the 2001–2003 design value time-period as seen in Table 3.<sup>2</sup>

TABLE 3—MAXIMUM 8-HOUR OZONE DESIGN VALUES  
[Parts per million]

Years	Design value
1994–1996 .....	0.099
1995–1997 .....	0.099
1996–1998 .....	0.101
1997–1999 .....	0.102
1998–2000 .....	0.100
1999–2001 .....	0.093
2000–2002 .....	0.088
2001–2003 .....	0.086
2002–2004 .....	0.083
2003–2005 .....	0.082
2004–2006 .....	0.083
2005–2007 .....	0.084
2006–2008 .....	0.084
2007–2009 .....	0.078

The maximum design value for 2007 through 2009 identified in Table 3 demonstrate attainment of the 1997 8-hour ozone NAAQS at a level of 0.079 parts per million (ppm). Further, these design values indicate that the Nashville maintenance Area is expected to continue attainment of the 1997 8-hour ozone NAAQS based on a gradual decrease in the design values. The attainment level for the 1997 8-hour ozone standards is 0.080 ppm, effectively 0.084 ppm with the rounding convention. In the event that a design value for the Nashville Area monitors exceed the 1997 8-hour ozone standards, one or more contingency measures included in Tennessee's maintenance plan would be promptly implemented in accordance with the contingency plan, as discussed below.

(e) *Contingency Plan.* In accordance with 40 CFR 51.905(a)(4)(ii) and the Wegman Memorandum, the Section 110(a)(1) maintenance plan includes contingency provisions to promptly correct a violation of the 1997 8-hour ozone NAAQS that may occur. The state of Tennessee has established two triggers to activate contingency measures including: (1) Quality assured ambient air quality monitoring data showing a violation of the 1997 8-hour ozone NAAQS at any monitor, and (2) an increase in the actual ozone precursor emissions of at least ten

<sup>2</sup> Under EPA regulations found at 40 CFR part 50, the 1997 8-hour ozone NAAQS are attained when the 3-year average of the annual fourth-highest daily maximum 8-hour ambient air quality ozone concentrations is less than 0.08 parts per million (i.e., 0.084 when rounding is considered).

percent over the 2007 emissions inventory. In the maintenance plan, if contingency measures are triggered, the State of Tennessee and Metro Nashville/Davidson County Pollution Control Division Office are committed to implement the measures as expeditiously as practicable, including adopting one or more contingency measures as expeditiously as practical and implementing the measures within twenty-four months of the triggering event. The contingency measures include: (1) Expansion of NO<sub>x</sub> and/or VOC control strategies in the Nashville Maintenance Area; (2) in conjunction with the State of Tennessee, implementation of mobile source transportation controls such as reduced speed limits for heavy duty diesel vehicles; (3) lowering major source thresholds; (4) expansion of the open burning ban in Davidson County to include homeowners in the area; (5) implementation of anti-idling legislation; and/or (6) any other control measure determined to be appropriate at the time a trigger is exceeded.

These contingency measures and schedules for implementation satisfy EPA's long-standing guidance on the requirements of section 110(a)(1) of continued attainment. Continued attainment of the 1997 8-hour ozone NAAQS in the Nashville Area will depend, in part, on the air quality measures discussed previously (see section II). In addition, the State of Tennessee and Metro Nashville/Davidson County Pollution Control Division Office commit to verify the 1997 8-hour ozone status in this maintenance plan through periodic ozone precursor emission inventory updates. Emission inventory updates will be completed by 18 months following the end of the inventory year to verify continued attainment of the 1997 8-hour ozone NAAQS.

### III. Proposed Action

Pursuant to section 110(a)(1) of the CAA, EPA is proposing to approve the maintenance plan addressing the 1997 8-hour ozone standards in the Nashville Area, submitted by the State of Tennessee, through TDEC, on August 3, 2010. The maintenance plan ensures continued attainment of the 1997 8-hour ozone NAAQS through the maintenance year 2018. EPA has evaluated Tennessee's submittal and has preliminarily determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

On March 12, 2008, EPA issued revised ozone NAAQS. On September 16, 2009, EPA announced it would

reconsider the 2008 NAAQS for ozone and proposed a new schedule for designations for the reconsidered NAAQS. The current action, however, is being taken to address requirements under the 1997 8-hour ozone standards. Requirements for the Nashville Area under the 2010 reconsidered ozone NAAQS will be addressed in the future.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this 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, Ozone, Volatile organic compounds.

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

Dated: September 28, 2010.

**Gwendolyn Keyes Fleming,**

*Regional Administrator, Region 4.*

[FR Doc. 2010-25448 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 122

[FRL-9211-2]

### Stakeholder Input on Stormwater Rulemaking Related to the Chesapeake Bay; Notice of Public Meeting

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

**ACTION:** Announcement of meeting.

**SUMMARY:** The purpose of this document is to announce EPA's intent to hold several public "listening sessions" in October and November 2010 and to request input from the public on Chesapeake Bay-specific provisions of a new stormwater rulemaking. On December 28, 2009, EPA issued a **Federal Register** Notice announcing EPA's initiation of a national rulemaking to establish a program to better protect waterbodies from the harmful effects of stormwater discharges from new development and redevelopment and make other regulatory improvements to strengthen its stormwater program. A range of public and private stakeholders provided input through both written comments and during a series of public listening sessions.

EPA is now soliciting input specifically on potential provisions of this stormwater rulemaking with respect to the Chesapeake Bay watershed, with several public "listening sessions" to be held in October and November 2010, and an interactive Webcast scheduled for November 16, 2010. EPA seeks input on whether to consider, among other things, the following: Regulating additional stormwater discharges not

currently regulated that are causing or contributing to water quality impairments in the Bay watershed; requiring additional measures targeting pollutants including, but not limited to, nitrogen, phosphorus, and sediment in the Chesapeake Bay Watershed; requiring retrofits of stormwater controls for existing development; and applying specific performance standards to discharges from new and redevelopment within the watershed. EPA also seeks input on whether to consider specific evaluation, tracking, or reporting elements. EPA also welcomes any other information that may help EPA develop regulations to better control pollutants in stormwater from the built environment to meet water quality objectives in the Chesapeake Bay Watershed.

As part of the listening sessions, EPA will also address environmental justice considerations and potential impacts and benefits that may arise as a consequence of the rulemaking. EPA invites the public to participate in these environmental justice discussions to provide feedback and share ideas related to stormwater management.

**DATES:** Written comments and any supporting data must be submitted on or before December 7, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2009-0817, by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.

- *E-mail:* [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov), Attention Docket ID No. EPA-HQ-OW-2009-0817.

- *Fax:* 202-566-9744.

- *Mail:* Water Docket, U.S.

Environmental Protection Agency, Mail code: 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-OW-2009-0817.

- *Hand Delivery:* Water Docket, EPA Docket Center, EPA West Building Room 3334, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. EPA-HQ-OW-2009-0817. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OW-2009-0817. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information

claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**FOR FURTHER INFORMATION CONTACT:** For further information on this document, contact Rachel Herbert, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202-564-2649 or e-mail: [herbert.rachel@epa.gov](mailto:herbert.rachel@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Public Listening Sessions and Webcast:* EPA will hold several informal public listening sessions in October and November 2010 and a Webcast on November 3, 2010 to gather input on possible Chesapeake Bay provisions of the new stormwater rulemaking. The public listening sessions will provide a review of potential considerations to strengthen the stormwater program specifically for the Chesapeake Bay watershed. Following the review, brief oral comments (three minutes or less) will be accepted at the sessions, and written statements will be accepted. EPA is also holding a discussion of environmental justice considerations related to these potential Chesapeake Bay specific provisions. See the discussion below for additional information on date, time and location of the listening sessions and webcast. The specific location names and addresses will also be posted on the Internet at <http://www.epa.gov/npdes/>

*stormwater/rulemaking* no later than October 11, 2010.

**Listening Sessions**

- October 26, 2010, 2 p.m. to 5 p.m. for the listening session and 6:30 p.m. to 8:30 p.m. for the environmental justice discussion at Radisson Plaza Lord Baltimore 20 West Baltimore Street Baltimore, MD 21201.

- October 28, 2010, 10 a.m. to 1 p.m. for the listening session and 2 p.m. to 4 p.m. for the environmental justice discussion at Hyatt Regency Chesapeake Bay 100 Heron Blvd. Cambridge, MD 21613.

- November 4, 2010, Washington, DC, 10 a.m. to 12 p.m. for environmental justice discussion and 1 p.m. to 4 p.m. for the listening session at 1201 Constitution Avenue, NW., Washington, DC 20004.

- November 9, 2010, 2 p.m. to 5 p.m. for the listening session and 6:30 p.m. to 8:30 p.m. for the environmental justice discussion at Omni Richmond Hotel 100 South 12th Street Richmond, VA 23219.

- November 17, 2010, 2 p.m. to 5 p.m. for the listening session and 6:30 p.m. to 8:30 p.m. for the environmental justice discussion at Forum Building 5th & Walnut Harrisburg, PA.

**Webcast**

- November 16, 2010, 1 p.m. to 4 p.m. EST, Visit <http://www.epa.gov/npdes/stormwater/rulemaking> to register to participate in the Webcast.

**I. General Information**

*A. How can I get copies of this document and other related information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. EPA-HQ-OW-2009-0817. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, 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, and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document

electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgrstr/>. Electronic versions of this notice and other stormwater documents are available at EPA's stormwater Web site <http://www.epa.gov/npdes/stormwater/rulemaking>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number. Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.A.1.

3. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark all of the information that you claim to be CBI. For CBI information on computer discs mailed to EPA, mark the surface of the disc as CBI. Also identify electronically the specific information contained in the disc or that you claim is CBI. In addition to one complete version of the specific information claimed as CBI, you must submit a copy that does not contain the information claimed as CBI for inclusion in the public document. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. It is important to note that EPA's policy is that public input, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the input contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies any input containing copyrighted material, EPA will provide a reference to that material in the version of the document that is placed

in EPA's electronic public docket. The entire printed submittal, including the copyrighted material, will be available in the public docket. Documents submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Input that is mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

#### *B. How and to whom do I submit input?*

You may submit input electronically, by mail, through hand delivery/courier, or in person by attending one of the five listening sessions. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your input. Please ensure that your input is submitted within the specified comment period.

1. *Electronically.* If you submit electronic input as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or CD-ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your submittal due to technical difficulties or needs further information on the substance of your input. EPA's policy is that EPA will not edit your input, and any identifying or contact information provided in the body of the text will be included as part of the input that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your submittal due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your input.

i. *EPA Dockets.* Your use of EPA's electronic public docket to provide input to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting input. Once in the system, select "search," and then key in Docket ID No. EPA-HQ-OW-2009-0817. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or

other contact information unless you provide it.

ii. *E-mail.* Input may be sent by electronic mail (e-mail) to [owdocket@epa.gov](mailto:owdocket@epa.gov), Attention Docket ID No. EPA-HQ-OW-2009-0817. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the submittal that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD-ROM.* You may submit input on a disk or CD-ROM that you mail to the mailing address identified in this section. These electronic submissions will be accepted in Microsoft Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send the original and three copies of your input to: Water Docket, Environmental Protection Agency, Mail code: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OW-2009-0817.

3. *By Hand Delivery or Courier.* Deliver your input to: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. EPA-HQ-OW-2009-0817. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays).

## **II. Background Statutory and Regulatory Overview**

Under section 402(p) of the Clean Water Act, the Environmental Protection Agency regulates stormwater discharges from municipal separate storm sewer systems (publicly owned conveyances or systems of conveyances that discharge to waters of the U.S. and are designed or used for collecting or conveying stormwater, are not combined sewers, and are not part of a publicly owned treatment works), stormwater discharges associated with industrial activity, and stormwater discharges from construction sites of one acre or larger. See 40 CFR 122.26(a). Under EPA's regulations, these stormwater discharges are required to be covered by National Pollutant Discharge Elimination System (NPDES) permits. EPA developed the stormwater regulations under section 402(p) in two

phases, as directed by the statute. In the first phase, under section 402(p)(4), EPA promulgated regulations establishing application requirements for NPDES permits for stormwater discharges from medium and large municipal separate storm sewer systems (MS4s) (serving populations of 100,000 or more) and stormwater discharges associated with industrial activity.

EPA published the final Phase I rule on November 16, 1990 (55 FR 47990). See 40 CFR 122.26. The Phase I rule, among other things, defined “stormwater discharges associated with industrial activity” to include construction sites of five acres or larger. 40 CFR 122.26(b)(14)(x).

In the second phase, under section 402(p)(5) and (6), EPA was required to conduct a study to identify other stormwater discharges that needed further controls to protect water quality, report to Congress on the results of the study, and to designate for regulation additional categories of stormwater discharges not regulated in Phase I. EPA promulgated the Phase II rule on December 8, 1999, designating small MS4s in Census Bureau-defined urbanized areas and small construction sites (1–5 acres) and requiring NPDES permits for these discharges. 64 FR 68722.

With respect to MS4s, the Phase I regulations are primarily application requirements that identify components that must be addressed in permit applications from large and medium MS4s. The regulations require these MS4s to develop a stormwater management program (SWMP), track and oversee industrial facilities regulated under the NPDES stormwater program, conduct monitoring, and submit periodic reports. Under the Phase II rule, regulated small MS4s are generally defined as any MS4 that is not already covered by the Phase I program and that are located within the urbanized area boundary as determined by the U.S. Decennial Census. Separate storm sewer systems such as those serving military bases, universities, large hospital or prison complexes, and highways are also included in the definition of “small MS4.” 40 CFR 122.26(b)(16). In addition, a small MS4 located outside of an urbanized area may be designated as a regulated small MS4 if the NPDES permitting authority determines that its discharges cause, or have the potential to cause, an adverse impact on water quality. See 40 CFR 122.32(a)(2), 123.35(b)(3).

Phase II stormwater regulations also require that the MS4, under the permit, implement stormwater management programs (SWMPs), and require that the

SWMPs include six minimum control measures. The minimum control measures are: Public education and outreach, public participation and involvement, illicit discharge detection and elimination, construction site runoff control, post construction runoff control, and pollution prevention and good housekeeping. Regulations applicable to Phase II MS4 permits are found in 40 CFR 122.30–122.37. In general, Phase II MS4 permits are general permits, although small MS4s may apply for individual permits under the Phase I rule’s application provisions in 40 CFR 122.26(d).

Under section 402(p)(6), EPA is authorized to designate additional stormwater discharges to be regulated other than those already regulated, and to establish a comprehensive program to regulate them. In addition, under EPA’s stormwater regulations, EPA (or States authorized to administer the NPDES program) may require NPDES permits for currently unregulated stormwater discharges by designating discharges pursuant to 40 CFR 122.26(a)(9)(i)(C) or (D).

### III. Input on Preliminary Considerations for Modifying/ Supplementing EPA’s Stormwater Regulations in the Chesapeake Bay Watershed

By today’s notice, EPA is informing the public of its preliminary considerations for modifying or supplementing EPA’s stormwater regulations to specifically address stormwater discharges in the Chesapeake Bay Watershed and soliciting public input on these considerations. EPA is accepting information during the listening sessions and/or by submission of written comments as described above in order to gain early public input on stormwater practices and regulations and to inform the stormwater rulemaking. The following are options that EPA is considering for strengthening the stormwater requirements and for which EPA seeks input. These options are not mutually exclusive and may be considered in combination.

*Option 1: Designate Additional Discharges to be Regulated.* Stormwater discharge from large areas of impervious cover can be a significant contributor to water quality impairments in the receiving waters. As part of the national rulemaking effort, EPA is considering regulating additional discharges that are not currently regulated, but are causing and/or contributing to the degradation of water quality in the Chesapeake Bay watershed. This option could be

achieved in various ways: Expanding the area of coverage for currently regulated MS4s, regulating currently unregulated MS4s, and designating discharges that do not flow through MS4s, including those that discharge to waterbodies directly. EPA is considering the need to further expand the scope of discharges regulated in the Chesapeake Bay watershed beyond those that would be regulated as part of the national rulemaking effort. EPA requests input from the public on (1) How to identify the appropriate jurisdictional boundaries for permit coverage, including the township, county, sewer district, or others; (2) how to identify areas within the Chesapeake Bay watershed that should be covered based on development pressures and to protect water quality; and (3) whether EPA should consider regulating stormwater discharges from particular types or sizes of development that are not covered by an MS4 permit.

*Option 2: Require Additional Chesapeake Bay-only MS4 Provisions.* EPA is considering adding new minimum measures or more specificity to the six existing minimum control measures to reduce the discharge of pollutants. The additional minimum measures could include requiring controls related to turf management, pesticide usage, fertilizer usage, and buffer widths. These additional minimum measures could be applied to all MS4s, to selected MS4s using a tiered approach based on the size of the MS4, or focused in those subwatershed or tributaries where these additional controls that are determined to be necessary to protect water quality. More specificity of the minimum control measures could include considerations for nitrogen, phosphorus and sediment, to strengthen the stormwater management programs in the Chesapeake Bay watershed and to further the implement of the Chesapeake Bay TMDL.

*Option 3: Require Retrofitting of Stormwater Management Controls with Improved Stormwater Control Measures.* EPA is considering adding a requirement that would make retrofitting structural stormwater controls mandatory for existing development that discharges through an MS4 and/or for large-scale development that does not discharge through an MS4. In its national stormwater rulemaking, EPA is considering a retrofit component that would apply nationally to MS4s. However, EPA seeks public input on whether to consider establishing either more stringent requirements for MS4s in the Chesapeake Bay watershed or a specific retrofit provision for discharges

that discharge directly to waterbodies within the Chesapeake Bay watershed. Additionally, EPA requests information related specifically to stream and floodplain restoration as well as buffer requirements so that the rulemaking can address the physical impacts of stormwater to streams to improve overall stream functionality.

*Option 4: Establish New and Redevelopment Standards.* As part of the national stormwater rulemaking, EPA is considering a number of options to improve stormwater quality through standards for newly developed and redeveloped sites. In the **Federal Register** Notice published December 28, 2009, EPA had requested comments on what standard(s) could be applied to new development and redevelopment that would promote sustainable practices and mimic natural processes through (1) Infiltration and recharge, (2) evapotranspiration, and/or (3) precipitation harvesting and reuse. With respect to the Chesapeake Bay watershed, EPA is considering whether to set distinct parameters to these standards for discharges from newly developed and redeveloped sites. For example, if EPA promulgates a rule with a national standard, one option could be to apply that standard to more sites than would be regulated under a national rule, such as sites smaller than the minimum size that may be specified in the national rule. Another option could be a Chesapeake Bay watershed-specific performance standard that differs from the national standard.

#### IV. Environmental Justice Considerations

As part of the listening sessions, EPA will also address environmental justice

considerations and potential impacts that may arise as a consequence of the Chesapeake Bay watershed provisions under consideration in the new rulemaking. Executive Order (EO) 12898 (59 FR 7629 (Feb. 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. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. To help achieve EPA's goals for environmental justice, EPA places particular emphasis on the public health of and environmental conditions affecting minority, low-income, and indigenous populations.

EPA solicits comment for these preliminary Chesapeake Bay watershed specific provisions to assess whether they will have a disproportionately high and adverse human health or environmental effects on minority or low-income populations. The Agency plans to discuss ways that local communities can identify areas of concern and incorporate "low impact development" (LID) or "green infrastructure" practices into their

stormwater management regimes. These practices, such as rain gardens, bioswales, green roofs, and pervious pavements, use infiltration, evapotranspiration, and stormwater capture and reuse to maintain or restore natural hydrologies, in order to lessen the environmental impacts of stormwater and improve public access to clean waters to improve livability. EPA is working with all stakeholders to strengthen its stormwater program and support communities in efforts to restore and maintain their urban waterbodies. Priorities for this effort include helping communities—especially underserved communities—access, improve, and benefit from their waters and the surrounding land.

EPA requests that participants in the listening sessions' environmental justice component share their ideas on the following questions focusing on stormwater issues:

- *Stormwater Benefits and Challenges*—What do you see as effective and ineffective strategies for managing stormwater in communities?
- *Federal Government Role*—How can the federal government be a more effective partner in helping to manage stormwater in your community?
- *Tools*—What additional tools and resources would help your efforts to successfully address the impact of stormwater in your community?

Dated: October 1, 2010.

**Deborah Nagle,**

*Associate Director Water Permits Division.*

[FR Doc. 2010-25318 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

# Notices

Federal Register

Vol. 75, No. 195

Friday, October 8, 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

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program, Form FNS-46, Issuance Reconciliation

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collection. This collection is an extension, without change, of a currently approved collection for Form FNS-46, Issuance Reconciliation Report, which concerns benefit issuance operations in the Supplemental Nutrition Assistance Program.

**DATES:** Written comments must be received on or before December 7, 2010 to be assured of consideration.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Andrea Gold, Chief, Retailer Management and

Issuance Branch, Benefit Redemption Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 403, Alexandria, VA 22302; FAX number (703) 305-1863; or via e-mail to: [BRDHQ-WEB@fns.usda.gov](mailto:BRDHQ-WEB@fns.usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments electronically.

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

#### FOR FURTHER INFORMATION CONTACT:

Andrea Gold, Chief, Retailer Management and Issuance Branch at (703) 305-2456.

#### SUPPLEMENTARY INFORMATION:

*Title:* Supplemental Nutrition Assistance Program: Form FNS-46, Issuance Reconciliation.

*Form Number:* FNS-46.

*OMB Number:* 0584-0080.

*Expiration Date:* February 28, 2011.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* Section 7(d) of the Food and Nutrition Act of 2008, as amended, (the Act) (7 U.S.C. 2016(d)), requires State agencies to report on their benefits issuance operations not less than monthly. Section 11(a) of the Act (7 U.S.C. 2020(a)) requires State agencies to assume responsibility for the issuance, control, and accountability of benefits. Regulations at 7 CFR 274.4 (a) and 274.4(b)(2) require State agencies to account for all issuance through the reconciliations process and to submit a report on this process using Form FNS-46, Issuance Reconciliation Report. These reports must be submitted to the Food and Nutrition Service (FNS) monthly and must reach FNS no later than 90 days following the end of each report month. The FNS-46 report reflects the total issuance, returns, and unauthorized issuance amounts resulting in the net Federal obligation.

With all States implementing EBT systems, the State have generally reduced the time they spend on reconciling SNAP benefit issuance and completing the FNS-46. Therefore, there is a corresponding reduction in the burden of collecting the FNS-46 data.

*Affected Public:* State, Local and Tribal Government.

*Estimated Number of Respondents:* 54.

*Estimated Number of Responses per Respondent:* 12.

*Estimated Total Annual Responses:* 648.

*Estimated Time per Response:* 4.0 hours.

*Estimated Total Annual Burden:* 2592 hours annually.

Dated: October 1, 2010.

**Julia Paradis,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2010-25410 Filed 10-7-10; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0090]

#### Notice of Request for Extension of Approval of an Information Collection; Bees and Related Articles

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of bees and related articles.

**DATES:** We will consider all comments that we receive on or before December 7, 2010.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0090> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS-2010-0090, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your

comment refers to Docket No. APHIS–2010–0090.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information on regulations for the importation of bees and related articles, contact Dr. Colin Stewart, Senior Entomologist, Pest Permit Evaluations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734–0774. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* Bees and Related Articles.

*OMB Number:* 0579–0207.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* Under the Honeybee Act (7 U.S.C. 281–286), the Secretary is authorized to prohibit or restrict the importation of honeybees and honeybee semen to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species such as the African honeybee. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

Further, the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As with the Honeybee Act, APHIS has delegated authority for the PPA.

The establishment of certain bee diseases, parasites, or undesirable species and subspecies of honeybees in the United States could cause substantial reductions in pollination by bees. These reductions could cause serious damage to crops and other plants and result in substantial financial losses to American agriculture.

Regulations for the importation of honeybees and honeybee semen and

regulations to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping products, and used beekeeping equipment are contained in 7 CFR part 322, “Bees, Beekeeping Byproducts, and Beekeeping Equipment.” These regulations require the use of certain information collection activities, including: An application for permit, appeals for denial of permit application and cancellation of permit, request for risk assessment, inspection report of containment facilities, request for release of containment, transit documentation, export certificate, notice of arrival, packaging and labeling, and recordkeeping by containment facilities.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.0352809 hours per response.

*Respondents:* Importers and shippers of bees and related articles, foreign governments, and containment facilities.

*Estimated annual number of respondents:* 336.

*Estimated annual number of responses per respondent:* 47.830357.

*Estimated annual number of responses:* 16,071.

*Estimated total annual burden on respondents:* 567 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 4th day of October 2010.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–25388 Filed 10–7–10; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Manti-La Sal National Forest Resource Advisory Committee; Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Manti-La Sal National Forest Resource Advisory Committee will meet in Price, Utah. 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 hold the second meeting of the newly formed Committee.

**DATES:** The meeting will be held October 20, 2010, and will begin at 9 a.m.

**ADDRESSES:** The meeting will be held in the conference room of the Utah Division of Wildlife Resources Building, 319 North Carbonville Road, Price, Utah. Written comments should be sent to Rosann Fillmore, Manti-La Sal National Forest, 599 West Price River Drive, Price, UT 84501. Comments may also be sent via e-mail to [rdfillmore@fs.fed.us](mailto:rdfillmore@fs.fed.us) or via facsimile to 435–637–4940.

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 Manti-La Sal National Forest, 599 West Price River Drive, Price, UT 84501. Visitors are encouraged to call ahead to 435–636–3525 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Rosann Fillmore, RAC coordinator, USDA, Manti-La Sal National Forest, 599 West Price River Drive, Price, UT 84501; 435–636–3525; E-mail [rdfillmore@fs.fed.us](mailto:rdfillmore@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) Consideration of Proposal Forms, (2) Development of Proposal Review Process, (3) Development of Guidelines, (4) 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. Public input sessions will be provided and individuals who made written requests by September 15, 2010 will have the opportunity to address the Committee at those sessions.

Dated: October 4, 2010.

**Pamela E. Brown,**

*Forest Supervisor.*

[FR Doc. 2010-25394 Filed 10-7-10; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Notice of Lincoln County Resource Advisory Committee Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday, October 13, 2010 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

**DATES:** October 13, 2010.

**ADDRESSES:** Forest Supervisor's Office, 31374 U.S. Hwy 2, Libby, Montana.

**FOR FURTHER INFORMATION CONTACT:** Janette Turk, Committee Coordinator, Kootenai National Forest at (406) 283-7764, or e-mail [jturk@fs.fed.us](mailto:jturk@fs.fed.us).

**SUPPLEMENTARY INFORMATION:** Agenda will include review of 2010 project proposals and 2008-09 project status. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: October 1, 2010.

**Paul Bradford,**

*Forest Supervisor.*

[FR Doc. 2010-25396 Filed 10-7-10; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0047]

#### Monsanto Company and KWS SAAT AG; Supplemental Request for Partial Deregulation of Roundup Ready Sugar Beet

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Animal and Plant Health Inspection Service has received a supplemental request for "partial deregulation" or similar administrative action from the Monsanto Company and KWS SAAT AG for the planting, harvesting, and interstate movement of Roundup Ready® sugar beets under measures designed to ensure any risks posed by cultivation are mitigated. This notice is to inform the public of the availability of the documents submitted to the Agency from Monsanto Company and KWS SAAT AG requesting a "partial deregulation."

**ADDRESSES:** You may view the request for "partial deregulation" on the Regulations.gov Web site (*see* <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0047>) or on the APHIS Web site (*see* [http://www.aphis.usda.gov/brs/aphisdocs2/03\\_32301p\\_a1.pdf](http://www.aphis.usda.gov/brs/aphisdocs2/03_32301p_a1.pdf)). Copies may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Coker, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 146, Riverdale, MD 20737-1236; (301) 734-5720. To obtain copies of the supplemental request for "partial deregulation," contact Ms. Cindy Eck at (301) 734-0667, e-mail: [cynthia.a.eck@aphis.usda.gov](mailto:cynthia.a.eck@aphis.usda.gov).

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such

genetically engineered organisms and products are considered "regulated articles."

On October 19, 2004, APHIS published a notice in the **Federal Register** (69 FR 61466-61467, Docket No. 04-075-1) announcing receipt of a petition from the Monsanto Company (Monsanto) and KWS SAAT AG (KWS) requesting a determination of nonregulated status under 7 CFR part 340 for sugar beet (*Beta vulgaris* ssp. *vulgaris*) designated as event H7-1, which has been genetically engineered for tolerance to the herbicide glyphosate. The petition stated that this article should not be regulated by APHIS because it is unlikely to pose a plant pest risk. APHIS also announced in that notice the availability of a draft environmental assessment (EA) examining the potential environmental impacts of the proposed action in accordance with National Environmental Policy Act requirements for the proposed determination of nonregulated status. Following review of public comments and completion of the EA, we published another notice in the **Federal Register** on March 17, 2005 (70 FR 13007-13008, Docket No. 04-075-2), advising the public of our determination, effective March 4, 2005, that the Monsanto/KWS sugar beet event H7-1 was no longer considered a regulated article under APHIS regulations in 7 CFR part 340.

On September 21, 2009, the U.S. District Court for the Northern District of California issued a ruling in a lawsuit filed by two organic seed groups and two nonprofit organizations challenging our decision to deregulate sugar beet event H7-1 (referred to in the lawsuit as Roundup Ready® sugar beet, or "RRSB"), pursuant to the Plant Protection Act (PPA) and in compliance with the Administrative Procedure Act and the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). Under the provisions of NEPA, agencies must examine the potential environmental impacts of proposed major Federal actions, and the Court ruled that APHIS' EA failed to consider certain environmental and interrelated economic impacts. As a result, the Court ruled that APHIS is required to prepare an environmental impact statement (EIS). Accordingly, APHIS is preparing an EIS, for which we published a notice<sup>1</sup> in the **Federal Register** (75 FR 29969-29972, Docket No. APHIS-2010-0047) on May 28, 2010, to solicit

<sup>1</sup> The notice can be viewed at <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0047>.

comments on the proposed scope of the EIS. The EIS process is ongoing.

On August 13, 2010, the Court vacated the deregulation determination, remanding the issue back to APHIS. RRSB is therefore once again a regulated article under 7 CFR part 340, and Monsanto and KWS have submitted a supplemental request for "partial deregulation" or similar administrative action for RRSB, along with an accompanying "Environmental Report," to allow the future planting, harvesting, and interstate movement of RRSB crops (both seed and root) under conditions designed to ensure any risks posed by the introduction of these sugar beets into the environment are thoroughly mitigated.

APHIS is evaluating this supplemental request and developing appropriate environmental analyses to inform its decisionmaking in reference to any APHIS decision or decisions to authorize future seed and root crop plantings under a combination of permits, administrative orders, or other regulatory options and measures. APHIS is considering regulatory options and measures that would include mitigating measures consistent with those it had proposed to the Court as interim measures while APHIS completes the EIS for the petition for determination of non-regulated status for RRSB. APHIS anticipates making a decision on the supplemental petition for "partial deregulation" and on other appropriate interim regulatory actions related to RRSB by the end of the year. There will be an opportunity for public comment on any environmental analyses developed for such decision or decisions. APHIS is notifying the public that its receipt of this supplemental request for "partial deregulation" and this notice to the public regarding it in no way indicates that the Agency agrees with the petitioners' description, application, or implementation of a "partial deregulation." Such matters and related issues are solely determined by APHIS pursuant to its PPA statutory authority and its biotechnology regulations in 7 CFR part 340.

Done in Washington, DC, this 4th day of October 2010.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-25387 Filed 10-7-10; 8:45 am]

**BILLING CODE 3410-34-P**

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

**SUMMARY:** U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Submit comments on or before December 7, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07-106, RRB, Washington, DC 20523, (202) 712-1365 or via e-mail [bjohnson@usaid.gov](mailto:bjohnson@usaid.gov).

**ADDRESSES:** Send comments via e-mail at [lwalker@usaid.gov](mailto:lwalker@usaid.gov) or mail comments to: Linda Walker, Bureau for Economic Growth, Agriculture and Trade, Office of Education, Participant Training Team, United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20523 (202) 712-1786.

#### SUPPLEMENTARY INFORMATION:

*OMB No.:* OMB 0412-New.

*Form No.:* N/A.

*Title:* USAID Visa Compliance System (VCS).

*Type of Review:* New Information Collection.

*Purpose:* The U.S. Agency for International Development, under the Foreign Assistance Act of 1961, as amended, engages in a broad range of sustainable economic assistance activities that provide technical and academic training in the United States and abroad for foreign nationals. These foreign nationals have been selected for

training by USAID in order to advance U.S. foreign policy objectives by supporting: Economic growth, agriculture and trade; global health; and democracy, conflict prevention, and humanitarian assistance. Training can consist of long-term academic degree programs, short-term technical courses, seminars, workshops, or other learning activities intended to impart certain knowledge and information.

USAID must track training data for all foreign nationals who receive training funded by USAID. In cases where foreign nationals must travel to the U.S. to participate in training or invitational travel, the approvals for the eligibility to obtain the J visa are captured in the Visa Compliance System (VCS). The Visa Compliance system has two purposes: first, to secure a J-1 visa for these foreign nationals traveling to the U.S.; second, to enable USAID to be in compliance with external requirements of the Department of Homeland Security. With certain exceptions, the foreign nationals that USAID sponsors for travel to the U.S. are considered exchange visitors. The VCS provides an audit trail regarding each exchange visitor, his or her training program or circumstances, as well as other relevant documentation.

*Annual Reporting Burden:*

*Respondents:* 600.

*Total annual responses:* 8,000.

*Total annual hours requested:* 2,000 hours.

Dated: September 27, 2010.

**Marilyn Collins,**

*Acting Director, Office of Administrative Services, Bureau for Management.*

[FR Doc. 2010-25022 Filed 10-7-10; 8:45 am]

**BILLING CODE 6116-01-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-008]

#### Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On June 10, 2010, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan. See *Preliminary Results of Antidumping Duty Administrative Review: Circular Welded Carbon Steel*

*Pipes and Tubes From Taiwan*, 75 FR 32911 (June 10, 2010) (*Preliminary Results*). This review covers one company, Yieh Phui Enterprise Co., Ltd. (Yieh Phui). Based on our analysis of the comments received, we have made no changes from the *Preliminary Results*. We have listed the final dumping margin below in the section entitled "Final Results of Review."

**DATES:** *Effective Date:* October 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Bezirgianian or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1131 and (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 10, 2010, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan for the period May 1, 2008, to April 30, 2009. See *Preliminary Results*. In response to the Department's invitation to comment on the preliminary results of this review, respondent Yieh Phui filed its case brief on July 12, 2010. Domestic producer Allied Tube & Conduit Corporation filed its rebuttal brief on July 16, 2010. No parties requested a hearing.

The deadline for the final results of this administrative review is October 8, 2010.

**Scope of the Order**

The merchandise covered by this order is certain circular welded carbon steel pipes and tubes from Taiwan, which are defined as: Welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inch, and 0.375 inch or more but not over 4.5 inches in outside diameter, currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

**Cost of Production**

As discussed in the *Preliminary Results*, we found that Yieh Phui made home market sales of the foreign like product during the POR at prices below its costs of production (COP) within the meaning of section 773(b) of the Act.

See *Preliminary Results*, 75 FR at 32913. Those results apply to these final results, given that no changes have been made from the calculations made in the *Preliminary Results*.

We found 20 percent or more of the respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(1)&(2) of the Act.

Therefore, for purposes of these final results, we continue to find that Yieh Phui made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for Yieh Phui and used the remaining sales as the basis for determining NV pursuant to section 773(b)(1) of the Act. For those U.S. sales of subject merchandise for which there were no matches to home market sales in the ordinary course of trade, we compared export prices to constructed value in accordance with section 773(a)(4) of the Act. See *Preliminary Results*, 75 FR 32913.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by interested parties in this administrative review are addressed in the Issues and Decision Memorandum (Decision Memorandum) from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated September 30, 2010, which is hereby adopted by this notice. A list of the two issues which parties raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 7046 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly via the Internet at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of the comments received, we have made no changes in the margin calculations.

**Final Results of Review**

We determine the following percentage margin exists for the period May 1, 2008 through April 30, 2009:

Manufacturer/exporter	Weighted-average margin (percentage)
Yieh Phui Enterprise Co., Ltd ...	5.04

**Assessment**

Pursuant to 19 CFR 351.212(b), the Department has calculated an assessment rate on all appropriate entries. The Department intends to issue appropriate appraisal instructions for the company subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

Because Yieh Phui did not report the entered value of its sales, we calculated importer-specific (or customer-specific) per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales of each importer (or customer) and dividing each of these amounts by the respective quantities (by weight) associated with those sales. 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-specific (or customer-specific) *ad valorem* ratios based on estimated entered values.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review for each importer (or customer) for which the importer-specific (or customer-specific) *ad valorem* ratio is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific (or customer-specific) *ad valorem* ratio is *de minimis* (i.e., less than 0.50 percent).

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) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by the company included in the final results where the reviewed companies did not know the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate

unreviewed entries at the all-others rate if there was no rate calculated in this review for the intermediary involved in the transaction. *See id.*, 68 FR at 23954.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, consistent with section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, 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, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 9.70 percent, the all-others rate established in the LTFV investigation. *See Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Antidumping Duty Order*, 49 FR 19369 (May 7, 1984). These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial

protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 30, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

#### Appendix—List of Issues in Decision Memorandum

Comment 1: Date of Sale for U.S. Sales  
Comment 2: Zeroing

[FR Doc. 2010-25298 Filed 10-7-10; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN 0648-XZ19**

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that an EFP application from the University of New England (UNE) contains all the required information and warrants further consideration. The EFP would allow three commercial fishing vessels to possess spiny dogfish (dogfish) during Federal quota closures in support of a study on their reproductive biology. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Spiny Dogfish Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on EFP applications.

**DATES:** Comments must be received on or before October 25, 2010.

**ADDRESSES:** Comments may be submitted by e-mail. The mailbox

address for providing e-mail comments is [nero.efp@noaa.gov](mailto:nero.efp@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: "Comments on UNE dogfish possession EFP." Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on UNE dogfish possession EFP." Comments may also be sent via facsimile (fax) to (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Lindsey Feldman, Fishery Management Specialist, *phone:* 978-675-2179, *fax:* 978-281-9135.

**SUPPLEMENTARY INFORMATION:** The EFP would exempt federally permitted commercial fishing vessels from dogfish closures while conducting research for the University of New England. The EFP would temporarily exempt participating vessels from dogfish quota closures, in limited situations for research purposes only, to retain dogfish that would otherwise be prohibited. No dogfish will be landed for sale when the fishery is closed.

The FMP implemented a semi-annual quota for the commercial dogfish fishery; when a semi-annual quota is projected to be harvested, NMFS closes the fishery until the next semi-annual quota opens. During a dogfish closure, no vessel may fish for or possess dogfish. A dogfish closure is currently in effect through October 31, 2010.

As part of a continuing research project, UNE is investigating the reproductive biology of dogfish along the U.S. Atlantic coast. UNE will investigate previously observed regional anomalies in dogfish reproductive biology. Investigators from UNE aim to update information known on the gestation period for dogfish; in particular whether the current estimate of 22 months for gestation has been overestimated. Data from the research would provide more detailed life history information on dogfish that could potentially be used to fine tune stock assessments and management plans for dogfish in the Northwest Atlantic.

The applicant would collect 150 female dogfish samples per month (one year total), 50 each from the Gulf of Maine (GOM), waters off New Jersey (NJ), and waters off North Carolina (NC). The total number of dogfish landed under this EFP would not exceed 1,800 individuals. Samples would be collected during regular commercial fishing operations, in areas open to commercial fishing for species other than spiny dogfish. Vessels would fish

with otter trawls that are fully compliant with applicable regulations and adhere to the following conditions: Possess 150 or fewer dogfish per trip; all live dogfish bycatch would be returned to the ocean as quickly as possible; no dogfish may be landed for sale; dogfish would not be targeted during the fishing trips.

Participating vessels would be exempt from the spiny dogfish fishery closure regulations at 50 CFR 648.231 and required to comply with all other applicable requirements and restrictions specified at 50 CFR part 648.

The applicant may make requests to NMFS for minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted by NMFS without further notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impact of the initially approved EFP request. In accordance with NOAA Administrative Order 216-6, a Categorical Exclusion or other appropriate NEPA document would be completed prior to the issuance of the EFP. Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following a 15-day public comment period.

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

Dated: October 5, 2010.

**Carrie Selberg,**

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

[FR Doc. 2010-25435 Filed 10-7-10; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Technology Innovation Program Advisory Board

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Technology Innovation Program Advisory Board, National Institute of Standards and Technology (NIST) will meet in open session on Tuesday, November 2, 2010, from 8:30 a.m. to 3:15 p.m. Eastern daylight savings time.

**DATES:** The meeting will convene Tuesday, November 2, 2010, at 8:30 a.m. and will adjourn at 3:15 p.m.

**ADDRESSES:** The meeting will be held at the National Institute of Standards and Technology, Advanced Measurement Laboratory, Building 215, Room C103, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

#### FOR FURTHER INFORMATION CONTACT:

Rene Cesaro, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2162. Ms. Cesaro's e-mail address is [rene.cesaro@nist.gov](mailto:rene.cesaro@nist.gov).

**SUPPLEMENTARY INFORMATION:** The Technology Innovation Program (TIP) Advisory Board is composed of ten members appointed by the Director of NIST who are eminent in such fields as business, research, science and technology, engineering, education, and management consulting. The purpose of this meeting is to review and make recommendations regarding general policy for the Technology Innovation Program, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include a TIP update, a presentation on the TIP critical national need process, and a discussion of potential critical national need areas for future funding. The agenda may change to accommodate Board business. The final agenda will be posted on the TIP Web site at: <http://www.nist.gov/tip/>. Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On November 2, 2010, approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the TIP Advisory Board, National Institute of Standards and Technology, 100 Bureau Drive, MS 4700, Gaithersburg, Maryland 20899, via fax at (301) 975-4032, or electronically by e-mail to [lorel.wisniewski@nist.gov](mailto:lorel.wisniewski@nist.gov).

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of

arrival, email address and phone number to Rene Cesaro no later than Friday, October 29, 2010, and she will provide you with instructions for admittance. Ms. Cesaro's e-mail address is [rene.cesaro@nist.gov](mailto:rene.cesaro@nist.gov) and her phone number is (301) 975-2162.

**Harry S. Hertz,**

*Director, Baldrige National Quality Program.*

[FR Doc. 2010-25412 Filed 10-7-10; 8:45 am]

**BILLING CODE 3510-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN: 0648-XZ52**

#### South Atlantic Fishery Management Council; Public Hearings

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

**ACTION:** Notice of public hearings.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a series of public hearings regarding Amendment 18A to the Snapper Grouper Fishery Management Plan (FMP) for the South Atlantic. *See SUPPLEMENTARY INFORMATION.*

**DATES:** A series of 3 public hearings will be held October 25 through October 27, 2010. The hearings will be open from 4 p.m. until 7 p.m. Members of the public will have an opportunity to go on record at any time during the meeting hours to record their comments on the public hearing topics for Council consideration. Written comments will be received in the South Atlantic Council's office until 5 p.m. on November 12, 2010. *See SUPPLEMENTARY INFORMATION.*

**SUPPLEMENTARY INFORMATION:** Amendment 18A to the Snapper Grouper FMP contains the following management actions: (1) Limit participation in the golden tilefish fishery through an endorsement program, (2) allocate commercial golden tilefish quota between gear groups, (3) establish criteria for transferability of golden tilefish endorsements, (4) change the commercial golden tilefish fishing year, (5) change the golden tilefish commercial trip limit, (6) establish trip limits for commercial fishermen who do not receive and endorsement in the golden tilefish fishery, (7) modify the commercial black sea bass fishery to limit participation and effort and reduce bycatch, and (8) improve the accuracy, timing, and quality of fisheries data.

### Hearing Dates and Locations

The public hearings will be held at the following locations:

1. October 25, 2010—Hilton New Bern Riverfront, 100 Middle Street, New Bern, NC 28562, telephone: (252) 638-3585;

2. October 26, 2010—Hilton Garden Inn, 5265 International Blvd., North Charleston, SC 29418, telephone: (843) 308-9330;

3. October 27, 2010—Hampton Inn Daytona Speedway, 1715 W. International Speedway Boulevard, Daytona Beach, FL 32114, telephone: (386) 257-4030.

**ADDRESSES:** Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405, or via e-mail to: [SGAmend18Acomments@safmc.net](mailto:SGAmend18Acomments@safmc.net).

Written comments must be received in the South Atlantic Council's office by 5 p.m. on November 12, 2010.

Copies of the public hearing document are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571-4366 or toll free at (866) SAFMC-10. Copies will also be available online at <http://www.safmc.net> as they become available.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571-4366; fax: (843) 769-4520; e-mail address: [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

### Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the start of each hearing.

Dated: October 5, 2010.

**Tracey L. Thompson,**

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

[FR Doc. 2010-25376 Filed 10-7-10; 8:45 am]

**BILLING CODE 3510-22-P**

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to the Procurement List.

**SUMMARY:** The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

*Comments Must Be Received On or Before:* 11/8/2010.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** For Further Information or to Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

#### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in

connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

#### End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

##### Products

Tape, Electrical Insulation

NSN: 5970-01-013-9367

NSN: 5970-01-245-7042

NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC

*Contracting Activity:* DEFENSE LOGISTICS AGENCY, DES DSCR CONTRACTING SERVICES OFC, RICHMOND, VA

*Coverage:* C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Aviation, Richmond, VA.

##### Services

*Service Type/Location:* Custodial Service, Fort Gordon, GA

NPA: Good Vocations, Inc., Macon, GA

*Contracting Activity:* DEPT OF THE ARMY, XR W6BB ACA GORDON, FORT GORDON, GA

*Service Type/Location:* Linen Service, VA Medical Center, Danville, IL

NPA: Human Resources Center of Edgar and Clark Counties, Paris, IL

*Contracting Activity:* DEPT OF VETERANS AFFAIRS, VA MEDICAL CENTER, DANVILLE, IL

*Service Type/Location:* Custodial Service (Basewide), Eglin AFB, FL

NPA: Lakeview Center, Inc., Pensacola, FL

*Contracting Activity:* Air Armaments Center, Eglin AFB, FL

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2010-25422 Filed 10-7-10; 8:45 am]

**BILLING CODE 6353-01-P**

### CONSUMER PRODUCT SAFETY COMMISSION

#### Sunshine Act Meetings

**TIME AND DATE:** Wednesday, October 13, 2010; 10 a.m.–11 a.m.

**PLACE:** Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Closed to the Public.

#### MATTER TO BE CONSIDERED:

Compliance Status Report

The Commission staff will brief the Commission on the status of compliance matters.

For a recorded message containing the latest agenda information, call (301) 504-7948.

**CONTACT PERSON FOR MORE INFORMATION:**  
Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504-7923.

Dated: October 5, 2010.

**Todd A. Stevenson,**  
Secretary.

[FR Doc. 2010-25583 Filed 10-6-10; 4:15 pm]

**BILLING CODE 6355-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #2

September 30, 2010.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-2647-000.

*Applicants:* Dynegy Power Marketing, Inc.

*Description:* Dynegy Power Marketing, Inc. submits tariff filing per 35.12: Market-Based Rate Tariff in Compliance with Order No. 714 to be effective 9/10/2010.

*Filed Date:* 09/10/2010.

*Accession Number:* 20100910-5272.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 06, 2010.

*Docket Numbers:* ER10-3241-000.

*Applicants:* Weyerhaeuser NR Company.

*Description:* Weyerhaeuser NR Company submits tariff filing per 35.12: Weyerhaeuser NR Company MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5115.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3242-000.

*Applicants:* Eagle Power Authority, Inc.

*Description:* Eagle Power Authority, Inc. submits tariff filing per 35.12: Eagle Power Authority, Inc. MBR eTariff Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5118.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3243-000.

*Applicants:* Chandler Wind Partners, LLC.

*Description:* Chandler Wind Partners, LLC submits tariff filing per 35.12: Chandler Wind Partners, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5121.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3244-000.

*Applicants:* Coso Geothermal Power Holdings, LLC.

*Description:* Coso Geothermal Power Holdings, LLC submits tariff filing per 35.12: Coso Geothermal Power Holdings, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5122.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3245-000.

*Applicants:* Foote Creek II, LLC.

*Description:* Foote Creek II, LLC submits tariff filing per 35.12: Foote Creek II, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5133.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3246-000.

*Applicants:* PacifiCorp.

*Description:* PacifiCorp submits tariff filing per 35.12: Baseline Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5144.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3247-000.

*Applicants:* Electric Energy, Inc.

*Description:* Electric Energy, Inc. submits tariff filing per 35.12: First Baseline Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5148.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3248-000.

*Applicants:* Black Oak Energy, LLC.

*Description:* Black Oak Energy, LLC submits tariff filing per 35.12: Black Oak Energy, LLC, FERC Electric Market Based Rate Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5150.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3249-000.

*Applicants:* Foote Creek III, LLC.

*Description:* Foote Creek III, LLC submits tariff filing per 35.12: Foote Creek III, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5152.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3250-000.

*Applicants:* Foote Creek IV, LLC.

*Description:* Foote Creek IV, LLC submits tariff filing per 35.12: Foote Creek IV, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5156.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3251-000.

*Applicants:* Oak Creek Wind Power, LLC.

*Description:* Oak Creek Wind Power, LLC submits tariff filing per 35.12: Oak Creek Wind Power, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5160.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3252-000.

*Applicants:* Ridge Crest Wind Partners, LLC.

*Description:* Ridge Crest Wind Partners, LLC submits tariff filing per 35.12: Ridge Crest Wind Partners, LLC MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5180.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3253-000.

*Applicants:* Wheelabrator Bridgeport, L.P.

*Description:* Wheelabrator Bridgeport, L.P. submits tariff filing per 35.12: Wheelabrator Bridgeport, L.P. MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5195.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3254-000.

*Applicants:* Cooperative Energy Incorporated.

*Description:* Cooperative Energy Incorporated (An Electric Membership Corporation) submits tariff filing per 35.12: Cooperative Energy Baseline MBR Tariff filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5198.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3255-000.

*Applicants:* MET MA LLC.

*Description:* MET MA LLC submits tariff filing per 35.12: MET MA, LLC FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5200.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-3256-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii) ISA No. 2641, CSA Nos. 2642, 2643–T157, AES New Creek, LLC, et al. to be effective 9/17/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5201.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3257–000.

*Applicants:* Starwood Power-Midway LLC.

*Description:* Starwood Power-Midway LLC submits tariff filing per 35.12: Starwood Midway FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5203.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3258–000.

*Applicants:* Ally Energy, LLC.

*Description:* Ally Energy, LLC submits tariff filing per 35.12: Ally Energy, LLC FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5205.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3259–000.

*Applicants:* Alcoa Power Generating Inc.

*Description:* Alcoa Power Generating Inc. submits tariff filing per 35.12: APGI OATT Baseline Filing to be effective 10/1/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5207.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3260–000.

*Applicants:* Granite Ridge Energy, LLC.

*Description:* Granite Ridge Energy, LLC submits tariff filing per 35.12: FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5208.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3261–000.

*Applicants:* Big Bog Energy LP.

*Description:* Big Bog Energy LP submits tariff filing per 35.12: Big Bog Energy LP, FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5209.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3262–000.

*Applicants:* Coaltrain Energy LP.

*Description:* Coaltrain Energy LP submits tariff filing per 35.12: Coaltrain Energy, LP, FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5210.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3263–000.

*Applicants:* Cleco Power LLC.

*Description:* Cleco Power LLC submits tariff filing per 35: Cleco Power OATT baseline refile to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5211.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3264–000.

*Applicants:* Cleco Power LLC.

*Description:* Cleco Power LLC submits tariff filing per 35: RS 21 Acadia Power Partners IA Baseline to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5213.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3265–000.

*Applicants:* Crestwood Energy, LP.

*Description:* Crestwood Energy, LP submits tariff filing per 35.12: Crestwood Energy LP, FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5223.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3266–000.

*Applicants:* SU FERC, L.L.C.

*Description:* SU FERC, L.L.C. submits tariff filing per 35.12: Baseline to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5249.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3267–000.

*Applicants:* Cleco Power LLC.

*Description:* Cleco Power LLC submits tariff filing per 35: RS 25 VEMCO ESIA Baseline to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5250.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3268–000.

*Applicants:* Energy Endeavors LP.

*Description:* Energy Endeavors LP submits tariff filing per 35.12: Energy Endeavors LP, FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5251.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3269–000.

*Applicants:* West Oaks Energy LP.

*Description:* West Oaks Energy LP submits tariff filing per 35.12: West Oaks Energy, LP, FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5252.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3270–000.

*Applicants:* Cleco Power LLC.

*Description:* Cleco Power LLC submits tariff filing per 35.13(a)(2)(iii): RS 21 Acadia Power Partners IA to be effective 10/1/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5255.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3271–000.

*Applicants:* ERA MA, LLC.

*Description:* ERA MA, LLC submits tariff filing per 35.12: ERA MA, LLC FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5256.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3272–000.

*Applicants:* Lower Mount Bethel Energy, LLC.

*Description:* Lower Mount Bethel Energy, LLC submits tariff filing per 35.12: Lower Mount Bethel Energy, LLC Reactive Power Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5263.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3273–000.

*Applicants:* PPL EnergyPlus, LLC.

*Description:* PPL EnergyPlus, LLC submits tariff filing per 35.12: PPL EnergyPlus, LLC Reactive Power Tariff Baseline Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5269.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3274–000.

*Applicants:* Pawtucket Power Associates Limited Partnership.

*Description:* Pawtucket Power Associates Limited Partnership submits tariff filing per 35.12: Baseline Market Based Rate Tariff Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5271.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3275–000.

*Applicants:* Capitol District Energy Center Cogeneration Associates.

*Description:* Capitol District Energy Center Cogeneration Associates submits tariff filing per 35.12: Baseline Market Based Rate Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5281.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3276–000.  
*Applicants:* Gotham Energy Marketing LP.

*Description:* Gotham Energy Marketing LP submits tariff filing per 35.12: Gotham Energy Marketing, LP, FERC Electric MBR Tariff No. 1 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5287.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3277–000.  
*Applicants:* Pittsfield Generating Company, L.P.

*Description:* Pittsfield Generating Company, L.P. submits tariff filing per 35.12: Baseline Filing of Market Based Rate Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5293.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3278–000.  
*Applicants:* Forked River Power LLC.  
*Description:* Forked River Power LLC submits tariff filing per 35.12: Baseline Filing of Market Based Rate Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5299.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3279–000.  
*Applicants:* Basin Creek Equity Partners, L.L.C.

*Description:* Basin Creek Equity Partners, L.L.C. submits tariff filing per 35.12: Baseline Filing of Market Based Rate Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5304.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3280–000.  
*Applicants:* PPL University Park, LLC.  
*Description:* PPL University Park, LLC submits tariff filing per 35.12: PPL University Park, LLC Market-Based Rate Tariff Baseline Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5308.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3281–000.  
*Applicants:* PPL University Park, LLC.  
*Description:* PPL University Park, LLC submits tariff filing per 35.12: PPL University Park, LLC Reactive Power Tariff Baseline Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5309.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3283–000.  
*Applicants:* Liberty Electric Power, LLC.

*Description:* Liberty Electric Power, LLC submits tariff filing per 35.12: FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5326.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3285–000.  
*Applicants:* UGI Utilities Inc.

*Description:* UGI Utilities Inc. submits tariff filing per 35.12: UGI Utilities Inc. to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5330.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3286–000.  
*Applicants:* Millennium Power Partners, L.P.

*Description:* Millennium Power Partners, L.P. submits tariff filing per 35.12: FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5333.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3287–000.  
*Applicants:* Cleco Power LLC.

*Description:* Cleco Power LLC submits tariff filing per 35: Attachment I Comp Filing 09/01/10 to be effective 10/1/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5334.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3288–000.  
*Applicants:* New Harquahala Generating Company, LLC.

*Description:* New Harquahala Generating Company, LLC submits tariff filing per 35.12: New Harquahala FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5336.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3289–000.  
*Applicants:* Nevada Power Company.

*Description:* Nevada Power Company submits tariff filing per 35: Concurrence in NV Energy, Inc. Operating Companies OATT to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5343.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3290–000.  
*Applicants:* Startrans IO, LLC.

*Description:* Startrans IO, LLC submits tariff filing per 35.12: Startrans IO FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5352.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3291–000.  
*Applicants:* Thermo Cogeneration Partnership, L.P.

*Description:* Thermo Cogeneration Partnership, L.P. submits tariff filing per 35.12: Thermo Cogen FERC Electric Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5357.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3292–000.  
*Applicants:* Power Choice Inc.  
*Description:* Power Choice Inc. submits tariff filing per 35.12: Power Choice Electric MBR Filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5360.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3293–000.  
*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii): FERC Rate Schedule No. 53, Village of Yellow Springs to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5364.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined

the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2010-25369 Filed 10-7-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

September 29, 2010.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC10-102-000.  
*Applicants:* NRG Energy, Inc, NRG Retail Acquisition Inc., Green Mountain Energy Company.

*Description:* Application for Authorization under Section 203 of the Federal Power Act, request for Expedited Treatment, and Request for Confidential Treatment of NRG Energy, Inc, et al.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5415.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* EC10-103-000.

*Applicants:* The Goldman Sachs Group, Inc.

*Description:* Request for reauthorization and extension of existing blanket authorization to acquire securities under section 203(a)(2) of the FPA and request for expedited action.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5475.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-1798-001.

*Applicants:* Northern States Power Company, a Wisconsin Corporation

*Description:* Northern States Power Company, a Wisconsin corporation submits tariff filing per 35: 20100929 Compliance Filing Revising Baseline to be effective 7/16/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5228.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-1866-002.

*Applicants:* New York Independent System Operator, Inc.

*Description:* New York Independent System Operator, Inc submits revisions to its Market Administration and Control Area Services Tariff, to be effective 9/30/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5449.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-2345-001.

*Applicants:* Domtar Maine, LLC.

*Description:* Domtar Maine, LLC submits Responses to Data Requests and Updated Tariff, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5010.

*Comment Date:* 5 p.m. Eastern Time on Friday, October 08, 2010.

*Docket Numbers:* ER10-3113-000.

*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii): FERC Rate Schedule No. 43, Village of Jackson Center to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5414.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3114-000.

*Applicants:* AES Eastern Energy, L.P.

*Description:* AES Eastern Energy, L.P. submits tariff filing per 35.12: AES Eastern Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5417.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3115-000.

*Applicants:* Waterside Power, LLC.

*Description:* Waterside Power, LLC submits tariff filing per 35.12: Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5418.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3116-000.

*Applicants:* AES Energy Storage, LLC.

*Description:* AES Energy Storage, LLC submits tariff filing per 35.12: AES Energy Storage Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5420.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3117-000.

*Applicants:* Lea Power Partners, LLC.

*Description:* Lea Power Partners, LLC submits tariff filing per 35.12: Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5421.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3118-000.

*Applicants:* AES ES Westover, LLC.

*Description:* AES ES Westover, LLC submits tariff filing per 35.12: AES ES Westover Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5422.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3119-000.

*Applicants:* Praxair Plainfield, Inc.

*Description:* Praxair Plainfield, Inc. submits tariff filing per 35.12: Praxair Plainfield MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5423.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3120-000.

*Applicants:* AES Huntington Beach, L.L.C.

*Description:* AES Huntington Beach, L.L.C. submits tariff filing per 35.12:

AES Huntington Beach Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5425.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3121-000.

*Applicants:* AES Ironwood, L.L.C.

*Description:* AES Ironwood, L.L.C. submits tariff filing per 35.12: AES Ironwood Baseline filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5426.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3122-000.

*Applicants:* AES Placerita, Incorporated.

*Description:* AES Placerita, Incorporated submits tariff filing per 35.12: AES Placerita Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5428.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3123-000.

*Applicants:* Standard Binghamton LLC.

*Description:* Standard Binghamton LLC submits tariff filing per 35.12: Standard Binghamton LLC FERC Electric MBR Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5429.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3124-000.

*Applicants:* Noble Altona Windpark, LLC.

*Description:* Noble Altona Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Altona Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5430.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3125-000.

*Applicants:* AL Sandersville, LLC.

*Description:* AL Sandersville, LLC submits tariff filing per 35.12: Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5431.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3126-000.

*Applicants:* AES Red Oak, L.L.C.

*Description:* AES Red Oak, L.L.C. submits tariff filing per 35.12: AES Red Oak Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5432.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3127-000.

*Applicants:* Noble Belmont Windpark, LLC.

*Description:* Noble Belmont Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Belmont Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5433.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3128-000.

*Applicants:* AES Redondo Beach, L.L.C.

*Description:* AES Redondo Beach, L.L.C. submits tariff filing per 35.12: AES Redondo Beach Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5434.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3129-000.

*Applicants:* Noble Bliss Windpark, LLC.

*Description:* Noble Bliss Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Bliss Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5435.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3130-000.

*Applicants:* Noble Chateaugay Windpark, LLC.

*Description:* Noble Chateaugay Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Chateaugay Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5437.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3131-000.

*Applicants:* Condon Wind Power, LLC.

*Description:* Condon Wind Power, LLC submits tariff filing per 35.12: Condon Wind Power Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5438.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3132-000.

*Applicants:* Noble Clinton Windpark I, LLC.

*Description:* Noble Clinton Windpark I, LLC submits tariff filing per 35.12: Baseline Filing for Noble Clinton

Windpark I, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5439.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3133-000.

*Applicants:* Nalcor Energy.

*Description:* Nalcor Energy submits tariff filing per 35.12: Nalcor Energy MBR Tariff to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5440.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3134-000.

*Applicants:* Noble Ellenburg Windpark, LLC.

*Description:* Noble Ellenburg Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Ellenburg Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5441.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3135-000.

*Applicants:* Noble Great Plains Windpark, LLC.

*Description:* Noble Great Plains Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Great Plains Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5442.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3136-000.

*Applicants:* Mountain View Power Partners, LLC.

*Description:* Mountain View Power Partners, LLC submits tariff filing per 35.12: Mountain View Baseline Filing to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5443.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3137-000.

*Applicants:* Noble Wethersfield Windpark, LLC.

*Description:* Noble Wethersfield Windpark, LLC submits tariff filing per 35.12: Baseline Filing for Noble Wethersfield Windpark, LLC to be effective 9/28/2010.

*Filed Date* 09/28/2010.

*Accession Number:* 20100928-5444.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3138-000.

*Applicants:* Denver City Energy Associates, LP.

*Description:* Denver City Energy Associates, LP submits tariff filing per

35.12: Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5447.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3139-000.

*Applicants:* Black River Generation, LLC.

*Description:* Black River Generation, LLC submits its baseline Market-Based Rate Tariff, FERC Electric Tariff No. 1, to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5448.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3140-000.

*Applicants:* Inland Empire Energy Center, LLC.

*Description:* Inland Empire Energy Center, LLC submits its Baseline Filing for Market-Based Rate Tariff, FERC Electric Tariff, First Revised Volume No 1, to be effective 9/28/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5013.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3141-000.

*Applicants:* Avista Corporation.

*Description:* Avista Corporation submits First Revised FERC Rate Scheduled No 184 and Exchange Agreement with Bonneville Power Administration, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5016.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3142-000.

*Applicants:* AEE2, L.L.C.

*Description:* AEE2, L.L.C. submits tariff filing per 35.12: AEE2 Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5453.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3143-000.

*Applicants:* Sabine Cogen, LP.

*Description:* Sabine Cogen, LP submits tariff filing per 35.12: Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5454.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3144-000.

*Applicants:* Entegra Power Services LLC.

*Description:* Entegra Power Services LLC submits tariff filing per 35.12: Entegra Power FERC Electric Tariff to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5455.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3145-000.

*Applicants:* AES Alamitos, LLC.

*Description:* AES Alamitos, LLC submits tariff filing per 35.12: AES Alamitos Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5456.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3146-000.

*Applicants:* Praxair, Inc.

*Description:* Praxair, Inc. submits tariff filing per 35.12: Praxair MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5457.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3147-000.

*Applicants:* AES Armenia Mountain Wind, LLC.

*Description:* AES Armenia Mountain Wind, LLC submits tariff filing per 35.12: AES Armenia Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5458.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3148-000.

*Applicants:* AES Creative Resources, L.P.

*Description:* AES Creative Resources, L.P. submits tariff filing per 35.12: AES Creative Res Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/28/2010.

*Accession Number:* 20100928-5459.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, October 19, 2010.

*Docket Numbers:* ER10-3149-000.

*Applicants:* Galt Power, Inc.

*Description:* Galt Power, Inc. submits its baseline tariff pursuant to Order No. 714, to be effective 9/28/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5019.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3150-000.

*Applicants:* Sunoco Power Generation LLC.

*Description:* Sunoco Power Generation LLC submits its baseline filing of Market-Based Rate Authority, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5020.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3151-000.

*Applicants:* NV Energy, Inc.

*Description:* NV Energy, Inc. submits tariff filing per 35.12: OATT Baseline

Filing for NV Energy, Inc. Operating Companies to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5023.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2010-25370 Filed 10-7-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #3

September 29, 2010.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-3022-000.  
*Applicants:* Cianbro Energy LLC.  
*Description:* Cianbro Energy LLC submits an application for authorization to make wholesale sales of energy and capacity at negotiated market-based rates.

*Filed Date:* 09/27/2010.  
*Accession Number:* 20100927-0202.  
*Comment Date:* 5 p.m. Eastern Time on Monday, October 18, 2010.

*Docket Numbers:* ER10-3023-000.  
*Applicants:* RJF-Morin Energy, LLC.  
*Description:* RJF-Morin Energy, LLC submits an application for authorization to make wholesale sales of energy and capacity at negotiated market-based rates.

*Filed Date:* 09/27/2010.  
*Accession Number:* 20100927-0203.  
*Comment Date:* 5 p.m. Eastern Time on Monday, October 18, 2010.

*Docket Numbers:* ER10-2943-000.  
*Applicants:* Smart One Energy, LLC.  
*Description:* Smart One Energy, LLC submits Petition for Acceptance of Initial Tariff, Waivers, and Blanket Authorizations.

*Filed Date:* 09/24/2010.  
*Accession Number:* 20100924-0201.  
*Comment Date:* 5 p.m. Eastern Time on Friday, October 15, 2010.

*Docket Numbers:* ER10-2946-000.  
*Applicants:* Corinth Energy, LLC.  
*Description:* Corinth Energy, LLC submits an application for authorization

to make wholesale sales of energy and capacity at negotiated market-based rates.

*Filed Date:* 09/24/2010.  
*Accession Number:* 20100924-0202.  
*Comment Date:* 5 p.m. Eastern Time on Friday, October 15, 2010.

*Docket Numbers:* ER10-2951-000.  
*Applicants:* Shipyard Energy, LLC.  
*Description:* Shipyard Energy, LLC submits application for authorization to make wholesale sales of energy and capacity at negotiated market-based rates.

*Filed Date:* 09/24/2010.  
*Accession Number:* 20100924-0203.  
*Comment Date:* 5 p.m. Eastern Time on Friday, October 15, 2010.

*Docket Numbers:* ER10-2954-000.  
*Applicants:* Garland Power Company.  
*Description:* Garland Power Company submits an application for authorization to make wholesale sales of energy and capacity at negotiated market-based rates.

*Filed Date:* 09/24/2010.  
*Accession Number:* 20100924-0204.  
*Comment Date:* 5 p.m. Eastern Time on Friday, October 15, 2010.

*Docket Numbers:* ER10-3185-000.  
*Applicants:* Northern Maine Independent System Administrator, Inc.  
*Description:* Northern Maine Independent System Administrator, Inc. submits tariff filing per 35.12: Baseline Market Rules Filing to be effective 9/30/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5265.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3186-000.  
*Applicants:* The Dayton Power and Light Company.  
*Description:* The Dayton Power and Light Company submits an Amended and Restated Power Services Agreement and FERC Rate Schedule No. 46, Village of New Bremen, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5271.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3187-000.  
*Applicants:* Commercial Energy of Montana.  
*Description:* Commercial Energy of Montana submits tariff filing per 35.12: Commercial Energy of Montana MBR eTariff Baseline Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5273.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3188-000.

*Applicants:* Public Service Company of New Mexico.

*Description:* Public Service Company of New Mexico submits the Baseline of its Open Access Transmission Tariff, FERC Electric Tariff Volume No. 6, to be effective 9/30/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5278.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3189-000.  
*Applicants:* CCES LLC.  
*Description:* CCES LLC submits tariff filing per 35.12: CCES LLC FERC Electric MBR Tariff Baseline Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5285.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3193-000.  
*Applicants:* Brooklyn Navy Yard Cogeneration Partners.  
*Description:* Brooklyn Navy Yard Cogeneration Partners, L.P. submits tariff filing per 35.12: Brooklyn Navy Yard Cogeneration Partners, L.P. Baseline Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5302.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3194-000.  
*Applicants:* MATEP LLC.  
*Description:* MATEP LLC submits tariff filing per 35.12: MATEP LLC MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5308.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3195-000.  
*Applicants:* MATEP Limited Partnership.

*Description:* MATEP Limited Partnership submits tariff filing per 35.12: MATEP Limited Partnership MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5315.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3196-000.  
*Applicants:* PEI Power Corporation.  
*Description:* PEI Power Corporation submits tariff filing per 35.12: Baseline Electric Market-Based Rates to be effective 9/30/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929-5320.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3197-000.  
*Applicants:* Midwest Independent Transmission System.

*Description:* Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): G546 Termination to be effective 11/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5335.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3198-000.

*Applicants:* Louisville Gas and Electric Company.

*Description:* Louisville Gas and Electric Company submits tariff filing per 35: 09\_29\_10 LGE GSS Tariff Baseline to be effective 9/30/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5358.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3199-000.

*Applicants:* Montana-Dakota Utilities Co., a Division.

*Description:* Montana-Dakota Utilities Co., a Division of MDU Resources Group Inc. submits tariff filing per 35.12: Montana-Dakota FERC Electric Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5379.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3200-000.

*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii): FERC Rate Schedule No. 51, City of Tipp City to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5388.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3201-000.

*Applicants:* Montana Generation, LLC.

*Description:* Montana Generation, LLC submits tariff filing per 35.12: Montana Generation, LLC FERC Electric Tariff Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5404.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

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call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2010-25372 Filed 10-7-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

September 30, 2010.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC10-104-000.

*Applicants:* Dynegy Services Plum Point, LLC, Dynegy Falcon Holdings, Inc., Plum Point Energy Associates, LLC, EIF Plum Point, LLC, John Hancock Life Insurance Company (U.S.A.).

*Description:* Dynegy Falcon Holdings, Inc., Dynegy Services Plum Point, LLC, Plum Point Energy Associates, LLC, EIF Plum Point, LLC, and John Hancock Life Insurance Company (U.S.A.), Joint Application For Approval Under Section 203 of the FPA.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5490.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-1977-003.

*Applicants:* New York Independent System Operator, Inc.

*Description:* New York Independent System Operator, Inc. submits tariff filing per 35.17(b): Errata to 7/26/10 IBRT Filing to be effective 9/30/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5420.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-2019-001.

*Applicants:* PPL New Jersey Solar, LLC.

*Description:* PPL New Jersey Solar, LLC submits tariff filing per 35: PPL New Jersey Solar, LLC Compliance Filing of Baseline Market-Based Rate Tariff to be effective 7/28/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930-5277.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10-2256-001.

*Applicants:* The Trustees of the University of Pennsylvania.

*Description:* Trustees of the University of Pennsylvania submits a

Petition for Acceptance of initial tariff, Waivers and Blanket Authority.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100930–0205.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3202–000.

*Applicants:* CenterPoint Energy Houston Electric, LLC.

*Description:* CenterPoint Energy Houston Electric, LLC submits tariff filing per 35.12: Baseline Filing, TFO Tariff, Sixth Revised Volume No. 1 to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5405.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3203–000.

*Applicants:* J. Aron & Company.

*Description:* J. Aron & Company submits tariff filing per 35.12: J. Aron & Company MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5408.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3204–000.

*Applicants:* Sempra Energy Solutions LLC.

*Description:* Sempra Energy Solutions LLC submits tariff filing per 35.12: Sempra Energy Solutions LLC MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5409.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3205–000.

*Applicants:* Atlantic Path 15, LLC.

*Description:* Atlantic Path 15, LLC submits tariff filing per 35.12: Atlantic Path 15 FERC Electric Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5410.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3206–000.

*Applicants:* Intercom Energy, Inc.

*Description:* Intercom Energy, Inc. submits tariff filing per 35.12: Intercom Energy, Inc. Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5415.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3207–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): 1670R1 Associated Electric Cooperative, Inc. IA to be effective 11/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5427.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3208–000.

*Applicants:* Power Receivable Finance, LLC.

*Description:* Power Receivable Finance, LLC submits tariff filing per 35.12: Power Receivable Finance, LLC MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5428.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3209–000.

*Applicants:* Royal Bank of Canada.

*Description:* Royal Bank of Canada submits tariff filing per 35.12: Baseline Filing of Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5436.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3210–000.

*Applicants:* RBC Energy Services LP.

*Description:* RBC Energy Services LP submits tariff filing per 35.12: Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5444.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3211–000.

*Applicants:* Sempra Energy Trading LLC.

*Description:* Sempra Energy Trading LLC submits tariff filing per 35.12: Sempra Energy Trading LLC MBR and Reactive Power Tariffs to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5448.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3212–000.

*Applicants:* BNP Paribas Energy Trading GP.

*Description:* BNP Paribas Energy Trading GP submits tariff filing per 35.12: BNP Paribas Energy trading Baseline to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5478.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3216–000; ER10–3217–000.

*Applicants:* Kentucky Utilities Company, Louisville Gas and Electric Company.

*Description:* Notice of Cancellation of LG&E OATT Vol 7, KU OATT Vol 4.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5492.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3218–000.

*Applicants:* Nevada Power Company.

*Description:* Application of Nevada Power Company to cancel FERC Electric Tariff, Volume No. 1 as part of the Order No. 714 baseline tariff.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5493.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3220–000.

*Applicants:* Electricity Maine, LLC.

*Description:* Electricity Maine, LLC submits application for authorization to make wholesale sales of energy and capacity at negotiated, market-based rates.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100930–0204.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3221–000.

*Applicants:* Freedom Logistics, LLC.

*Description:* Freedom Logistics, LLC submits an application for authorization to make wholesale sales of energy and capacity at negotiated, market-based rates.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100930–0203.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3224–000.

*Applicants:* MidAmerican Energy Company.

*Description:* MidAmerican Energy Company submits notice of cancellation of FERC Electric Tariff, Original Volume No 5 and the Service Agreements etc.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100930–0202.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3225–000.

*Applicants:* MEICO, Inc.

*Description:* Meico, Inc submits notice canceling their market-based rate tariff, FERC Electric Tariff, Original Volume 1 and a rate schedule designation sheet reflecting the cancellation of the tariff.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100930–0201.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3234–000.

*Applicants:* Energy Cooperative Association of Pennsylvania.

*Description:* Energy Cooperative Association of Pennsylvania submits tariff filing per 35.12: Energy Cooperative Association of Pennsylvania Baseline MBR eTariff Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5542.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3213–000.  
*Applicants:* Southwest Power Pool, Inc.

*Description:* Southwest Power Pool, Inc. submits an executed service agreement for Firm Point-to-Point Transmission Service with Oklahoma Municipal Power Authority, to be effective 9/1/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5005.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3214–000.

*Applicants:* PH Glatfelter Company.  
*Description:* PH Glatfelter Company submits Petition for Acceptance of Initial Rate Schedule, Waivers, and Blanket Authority, FERC Tariff No 1, to be effective 9/29/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5009.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3219–000.

*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii): FERC Rate Schedule No. 52, Village of Versailles to be effective 9/29/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5053.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3222–000.

*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii): FERC Rate Schedule No. 47, Village of Waynesfield to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5067.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3223–000.

*Applicants:* Indian River Power LLC.  
*Description:* Indian River Power LLC submits tariff filing per 35.12: Indian River Power FERC Electric Tariff 09302010 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5068.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3226–000.

*Applicants:* Great Bay Hydro Corporation.

*Description:* Great Bay Hydro Corporation submits tariff filing per 35.12: Baseline eTariff Filing Pursuant to Order No. 714 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5070.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3227–000.

*Applicants:* Great Bay Power Marketing, Inc.

*Description:* Great Bay Power Marketing, Inc. submits tariff filing per 35.12: Baseline eTariff Filing Pursuant to Order No. 714 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5072.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3228–000.

*Applicants:* MidAmerican Energy Company.

*Description:* MidAmerican Energy Company submits tariff filing per 35: Market-Based Rate Tariff Refiled to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5074.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3229–000.

*Applicants:* Midwest Independent Transmission System Operator, Inc..

*Description:* Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: 09–30–10 ARR Load Shifts Filing to be effective 9/1/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5075.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3230–000.

*Applicants:* Wheelabrator Portsmouth Inc.

*Description:* Wheelabrator Portsmouth Inc. submits tariff filing per 35.12: Wheelabrator Portsmouth Inc. MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5076.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3231–000.

*Applicants:* Wheelabrator Ridge Energy Inc.

*Description:* Wheelabrator Ridge Energy Inc. submits tariff filing per 35.12: Wheelabrator Ridge Energy Inc. MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5077.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3232–000.

*Applicants:* Wheelabrator Shasta Energy Company Inc.

*Description:* Wheelabrator Shasta Energy Company Inc. submits tariff filing per 35.12: Wheelabrator Shasta

Energy Company, Inc. MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5081.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3233–000.

*Applicants:* Wheelabrator South Broward Inc.

*Description:* Wheelabrator South Broward Inc. submits tariff filing per 35.12: Wheelabrator South Broward Inc. MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5091.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3235–000.

*Applicants:* MidAmerican Energy Company.

*Description:* MidAmerican Energy Company submits tariff filing per 35: Capacity and Energy Sales Tariff—Baseline filing to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5094.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3236–000.

*Applicants:* Wyoming Colorado Intertie, LLC.

*Description:* Wyoming Colorado Intertie, LLC submits tariff filing per 35.12: Open Access Transmission Tariff in Compliance with Order No. 714 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5103.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3237–000.

*Applicants:* Wheelabrator Frackville Energy Company Inc.

*Description:* Wheelabrator Frackville Energy Company Inc. submits tariff filing per 35.12: Wheelabrator Frackville Energy Company Inc. MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5106.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3238–000.

*Applicants:* MATL LLP.

*Description:* MATL LLP submits tariff filing per 35.12: Open Access Transmission Tariff in Compliance with Order No. 714 to be effective 9/30/2010.

*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5108.

*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3239–000.

*Applicants:* Wheelabrator Westchester L.P.

*Description:* Wheelabrator Westchester L.P. submits tariff filing per

35.12: Wheelabrator Westchester L.P. MBR Tariff to be effective 9/30/2010.  
*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5110.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

*Docket Numbers:* ER10–3240–000.  
*Applicants:* Wheelabrator North Andover Inc.

*Description:* Wheelabrator North Andover Inc. submits tariff filing per 35.12: Wheelabrator North Andover Inc. MBR Tariff to be effective 9/30/2010.  
*Filed Date:* 09/30/2010.

*Accession Number:* 20100930–5113.  
*Comment Date:* 5 p.m. Eastern Time on Thursday, October 21, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be

listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2010–25373 Filed 10–7–10; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #2

September 29, 2010.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–3152–000.  
*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii) G376 Termination to be effective 11/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5067.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3153–000.  
*Applicants:* City of Vernon, California.

*Description:* City of Vernon, California submits tariff filing per 35.12: Baseline Filing of Transmission Owner Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5072.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3154–000.  
*Applicants:* Niagara Generation, LLC.  
*Description:* Niagara Generation, LLC submits tariff filing per 35.12: Baseline Filing of Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5073.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3155–000.  
*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii) FERC Rate Schedule No. 44, Village of Lakeview to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5077.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3156–000.  
*Applicants:* MeadWestvaco Virginia Corporation.

*Description:* MeadWestvaco Virginia Corporation submits tariff filing per 35.12: MeadWestvaco Virginia MBR Filing to be effective 9/28/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5098.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3157–000.  
*Applicants:* City Power Marketing, LLC.

*Description:* City Power Marketing, LLC submits tariff filing per 35.12: City Power MBR Tariff to be effective 9/30/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5099.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3158–000.  
*Applicants:* Dillon Wind LLC.  
*Description:* Dillon Wind LLC submits its baseline tariff filing of Market-Based Rate Tariff, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5117.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3159–000.  
*Applicants:* Dry Lake Wind Power, LLC.

*Description:* Dry Lake Wind Power, LLC submits tariff filing per 35.12: Baseline Filing of Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.  
*Accession Number:* 20100929–5119.  
*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3160–000.  
*Applicants:* The United Illuminating Company.

*Description:* The United Illuminating Company submits tariff filing per 35.12: The United Illuminating Company Baseline MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5120.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3161-000.

*Applicants:* Shiloh I Wind Project, LLC.

*Description:* Shiloh I Wind Project, LLC submits its baseline tariff of Market-Based Rate Tariff, pursuant to Order No 714, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5121.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3162-000.

*Applicants:* Mountain View Power Partners III, LLC.

*Description:* Mountain View Power Partners III, LLC submits tariff filing per 35.12: Baseline Filing of Market-Based Rate Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5123.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3163-000.

*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii) FERC Rate Schedule No. 45, Village of Mendon to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5124.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3165-000.

*Applicants:* New York Independent System Operator, Inc.

*Description:* New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii) Stephentown Service Agreement between Niagara Mohawk and Beacon Power to be effective 11/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5127.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3166-000.

*Applicants:* Cadillac Renewable Energy LLC.

*Description:* Cadillac Renewable Energy LLC submits tariff filing per 35.12: Cadillac Renewable Energy LLC MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5128.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3167-000.

*Applicants:* Black Bear Hydro Partners, LLC.

*Description:* Black Bear Hydro Partners, LLC submits its Baseline Filing of Market-Based Rate Tariff, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5129.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3168-000.

*Applicants:* ArcLight Energy Marketing, LLC.

*Description:* ArcLight Energy Marketing, LLC submits tariff filing per 35.12: ArcLight Energy Marketing, LLC MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5131.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3169-000.

*Applicants:* Michigan Power Limited Partnership.

*Description:* Michigan Power Limited Partnership submits its baseline filing of Market-Based Rate Tariff, to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5133.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3170-000.

*Applicants:* Avista Corporation.

*Description:* Avista Corporation submits tariff filing per 35: Avista Corp Attachment K Docket No. OA08-25-004 to be effective 9/30/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5178.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3171-000.

*Applicants:* NorthWestern Corporation.

*Description:* NorthWestern Corporation submits tariff filing per 35.12: NorthWestern Corporation Electric Tariffs to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5186.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3172-000.

*Applicants:* MidAmerican Energy Company.

*Description:* MidAmerican Energy Company submits tariff filing per 35.12: Market-Based Rate Tariff—Baseline Filing to be effective 9/30/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5189.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3173-000.

*Applicants:* Gilberton Power Company.

*Description:* Gilberton Power Company submits tariff filing per 35.12: Baseline Filing for Gilberton Power Company Market-Based Rate Tariff to be effective 9/28/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5190.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3174-000.

*Applicants:* Maine Public Service Company.

*Description:* Maine Public Service Company submits tariff filing per 35.12: Electronic Baseline Tariff Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5198.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3175-000.

*Applicants:* The Dayton Power and Light Company.

*Description:* The Dayton Power and Light Company submits tariff filing per 35.13(a)(2)(iii) FERC Rate Schedule No. 50, Village of Minster to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5205.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3176-000.

*Applicants:* Gerdau Ameristeel Energy, Inc.

*Description:* Gerdau Ameristeel Energy, Inc. submits tariff filing per 35.12: Gerdau Ameristeel Energy, Inc. to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5209.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3177-000.

*Applicants:* UGI Energy Services, Inc.

*Description:* UGI Energy Services, Inc. submits tariff filing per 35.12: UGI Energy Services, Inc. to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5210.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3178-000.

*Applicants:* Windstar Energy, LLC.

*Description:* Windstar Energy, LLC submits tariff filing per 35.12: Winstar LLC Market-Based Rate Baseline Filing to be effective 9/28/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929-5213.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10-3179-000.

*Applicants:* Pinpoint Power, LLC.

*Description:* Pinpoint Power, LLC submits tariff filing per 35.12: Pinpoint

Power, LLC MBR Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5217.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3180–000.

*Applicants:* Midwest Independent Transmission System.

*Description:* Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): Attachment O GRE to be effective 12/31/9998.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5233.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3181–000.

*Applicants:* UGI Development Company.

*Description:* UGI Development Company submits tariff filing per 35.12: UGI Development Company to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5236.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3182–000.

*Applicants:* Clean Currents LLC.  
*Description:* Clean Currents LLC submits tariff filing per 35.12: Clean Currents LLC MBR eTariff Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5245.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3183–000.

*Applicants:* Sunoco Power Marketing, LLC.

*Description:* Sunoco Power Marketing, LLC submits tariff filing per 35.12: Sunoco Power Marketing, LLC eTariff MBR Filing to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5258.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

*Docket Numbers:* ER10–3184–000.

*Applicants:* FortisUS Energy Corporation.

*Description:* FortisUS Energy Corporation submits tariff filing per 35.12: FortisUS Market-Based Rate Baseline Tariff to be effective 9/29/2010.

*Filed Date:* 09/29/2010.

*Accession Number:* 20100929–5262.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, October 20, 2010.

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and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2010–25371 Filed 10–7–10; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–9211–8]

### Agency Information Collection Activities OMB Responses

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

**ACTION:** Notice.

**SUMMARY:** This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. Seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

**FOR FURTHER INFORMATION CONTACT:** Rick Westlund (202) 566–1682, or e-mail at [westlund.rick@epa.gov](mailto:westlund.rick@epa.gov) and please refer to the appropriate EPA Information Collection Request (ICR) Number.

#### SUPPLEMENTARY INFORMATION:

#### OMB Responses to Agency Clearance Requests

##### OMB Approvals

EPA ICR Number 2370.02; Ambient Oxides of Sulfur Monitoring Regulations: Revisions to Network Design Requirements (Final Rule); 40 CFR part 58; was approved on 09/02/2010; OMB Number 2060–0642; expires on 09/30/2013; Approved with change.

EPA ICR Number 1188.10; TSCA Section 5(a); 40 CFR parts 3, 700, 720, 721, 723 and 725, was approved on 09/07/2010; OMB Number 2070–0038; expires on 11/30/2012; Approved without change.

EPA ICR Number 0574.14; Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances; 40 CFR parts 3, 700, 720, 721, 723 and 725, 40 CFR 720.36, 40 CFR 720.38, 40 CFR 720.40, 40 CFR 723.50, 40 CFR 723.175, 40 CFR 725.15, 40 CFR 725.190, 40 CFR

725.250, 40 CFR 725.424 and 40 CFR 725.428, 40 CFR part 725 subpart F; was approved on 09/07/2010; OMB Number 2070-0012; expires on 12/31/2011; Approved without change.

EPA ICR Number 2096.04; NESHAP for Iron and Steel Foundries; 40 CFR part 63, subpart A and 40 CFR part 63, subpart EEEEE; was approved on 09/20/2010; OMB Number 2060-0543; expires on 09/30/2013; Approved without change.

EPA ICR Number 1963.04; NESHAP for Organic Liquids Distribution (Non-Gasoline) Facilities; 40 CFR part 63, subpart A and 40 CFR part 63, subpart EEEE; was approved on 09/20/2010; OMB Number 2060-0539; expires on 09/30/2013; Approved without change.

EPA ICR Number 2213.03; Control of Evaporative Emissions from New and In-Use Portable Gasoline Containers (Renewal); 40 CFR part 59, subpart F; was approved on 09/20/2010; OMB Number 2060-0597; expires on 09/30/2013; Approved without change.

EPA ICR Number 1844.04; NESHAP for Petroleum Refineries, Catalytic Cracking, Reforming and Sulfur Units; 40 CFR part 63, subpart A and 40 CFR part 63, subpart UUU; was approved on 09/20/2010; OMB Number 2060-0554; expires on 09/30/2013; Approved without change.

EPA ICR Number 2390.01; Internet Survey Research for Improving Fuel Economy Label Design and Content; was approved on 09/24/2010; OMB Number 2060-0643; expires on 03/31/2011; Approved with change.

EPA ICR Number 1780.05; Voluntary Cover Sheet for TSCA Submissions; was approved on 09/28/2010; OMB Number 2070-0156; expires on 09/30/2013; Approved without change.

EPA ICR Number 2080.04; Motor Vehicle and Engine Compliance Program Fees (Renewal); 40 CFR part 1027; was approved on 09/28/2010; OMB Number 2060-0545; expires on 09/30/2013; Approved without change.

EPA ICR Number 0309.13; Registration of Fuels and Fuel Additives: Requirements for Manufacturers (Renewal); 40 CFR part 79 subparts B and C; 40 CFR part 79.5; 49 CFR part 79 subparts B and C; was approved on 09/28/2010; OMB Number 2060-0150; expires on 09/30/2013; Approved without change.

EPA ICR Number 1659.07; NESHAP for Gasoline Distribution Facilities; 40 CFR part 63, subpart A and 40 CFR part 63, subpart R; was approved on 09/28/2010; OMB Number 2060-0325; expires on 09/30/2013; Approved without change.

EPA ICR Number 2045.04; NESHAP for Automobile and Light-duty Truck

Surface Coating; 40 CFR part 63, subpart III; was approved on 09/28/2010; OMB Number 2060-0550; expires on 09/30/2013; Approved without change.

EPA ICR Number 1967.04; NESHAP for Stationary Combustion Turbines; 40 CFR part 63, subpart A and 40 CFR part 63, subpart YYYY; was approved on 09/28/2010; OMB Number 2060-0540; expires on 09/30/2013; Approved without change.

EPA ICR Number 0010.12; Information Requirements for Importation of Nonconforming Vehicles (Renewal); 19 CFR 12.73, 12.74, and 85.1501, 19 CFR part 85, subparts P and R, was approved on 09/28/2010; OMB Number 2060-0095; expires on 09/30/2013; Approved without change.

#### Comment Filed

EPA ICR Number 2028.05; NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters at Major Sources; in 40 CFR part 63, subpart A and 40 CFR part 63, subpart DDDDD; OMB filed comment on 09/20/2010.

EPA ICR Number 2385.01; Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration (CISWI) Units; in 40 CFR part 60, subpart DDDD; OMB filed comment on 09/20/2010.

EPA ICR Number 2253.01; NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources; in 40 CFR 63.6, 63.10, 63.11205, 63.11222, 63.11225, 63.11226, 63.11227 and 63.11228; OMB filed comment on 09/20/2010.

EPA ICR Number 2384.01; NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) units; in 40 CFR part 60 subpart CCCC; OMB filed comment on 09/20/2010.

EPA ICR Number 2382.01; Identification of Non-Hazardous Secondary Materials That Are Solid Waste (Proposed Rule); in 40 CFR 260.22 and 260.31(c); OMB filed comment on 09/20/2010.

EPA ICR Number 1189.22; Coal Combustion Residuals Generated by Commercial Electric Power Producers (Proposed Rule); in 40 CFR 261.31, 260.34, 261.2(a)(2)ii and 261.4(a)23-25; OMB filed comment on 09/20/2010.

EPA ICR Number 2391.01; Interstate Transport of Fine Particulate Matter and Ozone (Proposed Rule); in 40 CFR parts 51, 75, 96 and 97, OMB filed comment on 09/30/2010.

Dated: October 4, 2010.

**John Moses,**

Director, Collections Strategies Division.

[FR Doc. 2010-25426 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2010-0367; FRL-9211-9]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for New Residential Wood Heaters (Renewal), EPA ICR Number 1176.09, OMB Control Number 2060-0161

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before November 8, 2010.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-HQ-OECA-2010-0367 to (1) EPA online using <http://www.regulations.gov> (our preferred method), or by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

#### FOR FURTHER INFORMATION CONTACT:

Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564-4113; *fax number:* (202) 564-0050; *e-mail address:* [williams.learia@epa.gov](mailto:williams.learia@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 2, 2010 (75 FR 30813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2010-0367, which is available for public viewing online at <http://www.regulations.gov>, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566-1752.

Use EPA's electronic docket and comment system at <http://www.regulations.gov>, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents, whether submitted electronically or in paper will be made available for public viewing at <http://www.regulations.gov>, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. *Please note* that EPA's policy is that public comments the electronic docket, go to <http://www.regulations.gov>.

*Title:* NSPS for New Residential Wood Heaters (Renewal).

*ICR Numbers:* EPA ICR Number 1176.09, OMB Control Number 2060-0161.

*ICR Status:* This ICR is schedule to expire on December 31, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain-EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* The New Source Performance Standard for New Residential Wood Heaters was proposed on February 18, 1987, and promulgated on February 26, 1988. This standard applies to each wood heater either manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990. Wood heaters manufactured on or after July 1, 1990, or sold at retail on or after July 1, 1992, must meet more stringent emission standards. Approximately 54 manufacturers, 875 retailers, and 5 certification laboratories are currently subject to the regulations. It is estimated that no additional sources will become subject to the standard over the next three years. Particulate Matter (PM) is the pollutant regulated under the standard.

Two features of this rulemaking are unique to the New Source Performance Standard (NSPS) program. First, these standards were negotiated by representatives of groups affected by the NSPS, including those groups which are burdened by the information collection activities. These representatives judged none of these activities unreasonable. The affected groups recommended some of these provisions as a means of promoting an efficient and smooth running certification and enforcement program. Second, these regulations established a certification program instead of the usual NSPS requirement that each affected facility demonstrated compliance through new source review and testing. Under this certification program, a single wood heater is tested to demonstrate compliance for an entire model line which could consist of thousands of stoves. The certification approach significantly reduces the compliance burden, including information collection, for the manufacturers of wood heaters. Because of the potential risks to the environment from the intentional or accidental misuse of the certification approach, there were several safeguards included, some of which entail reporting and recordkeeping.

Under this regulation, wood heater manufacturers, testing laboratories, and retailers are required to submit reports to EPA and/or to maintain records for demonstrating compliance with the NSPS.

The information supplied by the manufacturer to the Agency is used to: (1) Ensure that Best Demonstrated Technology is being applied to reduce emissions from wood heaters; (2) ensure that the wood heater tested for certification purposes is in compliance with the applicable emission standards; (3) provide assurance that interested production model heaters have emission

performance characteristics similar to tested models; and (4) provide an indicator of continued compliance.

Information supplied to the Agency by testing laboratories is used to either grant or to deny laboratory accreditation, and to assist in enforcement and compliance activities. Information requested by the Agency from manufacturers is used to determine compliance with requirements that are based upon volume of production.

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 Number for EPA's regulations are list in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 51 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining, information, and disclosing and providing information. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* New residential wood heaters.

*Estimated Number of Respondents:* 934.

*Frequency of Response:* On occasion.

*Estimated Total Annual Hour Burden:* 9,729.

*Estimated Total Annual Cost:* \$2,260,853, which includes \$912,853 in labor costs, \$1,345,500 in capital/startup costs, and \$2,500 in operation and maintenance (O&M) costs.

*Changes in the Estimates:* There is no increase in the number of affected facilities or the number of responses compared to the previous ICR. There is however, an increase in the estimated labor burden hours of one hour, as currently identified in the OMB Inventory of Approved Burdens, due to rounding of the calculations. This increase is not due to any program changes. We also updated the labor

rates, which resulted in an increase in labor cost.

Dated: October 4, 2010.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2010-25428 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8993-1]

### Environmental Impacts Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements

Filed 09/27/2010 through 10/01/2010. Pursuant to 40 CFR 1506.9.

#### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: <http://www.epa.gov/compliance/nepa/eisdata.html>. Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

EIS No. 20100389, Final EIS, USFS, OR, D-Bug Hazard Reduction Timber Sales Project, To Lessen the Fuel and Safety Hazards Associated With the On-Going Outbreak of Mountain Pine Beetles, Diamond Lake Ranger District, Umpqua National Forest, Douglas County, OR, Wait Period Ends: 11/08/2010, Contact: Joyce Thompson 541-957-3457.

This document is available on the Internet at: <http://www.fs.fed.us/r6/umpqua/projects/projectdocs/d-bug-ts/index.shtml>.

EIS No. 20100390, Draft EIS, NSF, 00, Programmatic—Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey, To Fund

the Investigation of the Geology and Geophysics of the Seafloor by Collecting Seismic Reflection and Refraction Data, Across the World's Ocean, Comment Period Ends: 11/22/2010, Contact: Holly Smith 703-292-8593.

This document is available on the Internet at <http://www.nsf.gov/geo/oce/envcomp/index.jsp>.

EIS No. 20100391, Final EIS, USACE, NC, Surf City and North Topsail Beach Project, To Evaluate Coastal Storm Damage Reduction, Topsail Island, Pender and Onslow Counties, NC, Wait Period Ends: 11/22/2010, Contact: Doug Piatkowski 910-251-4908.

EIS No. 20100392, Draft EIS, BR, CA, Nimbus Hatchery Fish Passage Project, To Create and Maintain a Reliable System for Collecting Adult Fish to Allow Reclamation, Rancho Cordova, Gold River, CA, Comment Period Ends: 11/30/2010, Contact: David Robinson 916-989-7179.

EIS No. 20100393, Final EIS, DOE, WA, Cushman Hydroelectric Project (FERC No. 0456), Design and Construction of New 3.6-MW Powerhouse on the North Fork of the Skokomish River, Mason County, WA, Wait Period Ends: 11/08/2010, Contact: Jane Summerson 202-340-9626.

EIS No. 20100394, Draft EIS, FHWA, NC, NC-109 Corridor Improvement Study, From Old Greensboro Road (NC-1798) to I-40/US 311, Davidson and Forsyth Counties, NC, Comment Period Ends: 11/22/2010, Contact: Vince Rhea 919-733-7844.

EIS No. 20100395, Final EIS, USACE, LA, Convey Atchafalaya River Water to Northern Terrebonne Marshes and Multipurpose Operation of Houma Navigation Lock, Integrated Feasibility Study, Louisiana Coastal Area (LCA) Implementation, Lafourche, Terrebonne, St. Mary Parish, LA, Wait Period Ends: 11/08/2010, Contact: Dr. Nathan Dayan 504-862-2530.

EIS No. 20100396, Final EIS, USACE, LA, Louisiana Coastal Area (LCA)—Louisiana, Terrebonne Basin Barrier Shoreline Restoration, Feasibility Study, Implementation, Terrebonne Parish, LA, Wait Period Ends: 11/08/2010, Contact: Dr. William P. Klein, Jr. 504-862-2540.

EIS No. 20100397, Final EIS, USACE, LA, Small Diversion at Convent/Blind River, Proposes to construct a Freshwater Diversion Project, Integrated Feasibility Study, Louisiana Coastal Area, St. James Parish, LA, Wait Period Ends: 11/08/2010, Contact: Dr. William P. Klein, Jr. 504-862-2540.

EIS No. 20100398, Final EIS, USACE, LA, Medium Diversion at White Ditch, Integrated Feasibility Study, Louisiana Coastal Area (LCA) Ecosystem Restoration, Implementation, Plaquemines Parish, LA, Wait Period Ends: 11/08/2010, Contact: Dr. Nathan Dayan 504-862-2530.

EIS No. 20100399, Final EIS, USACE, LA, Amite River Diversion Canal Modification Element of the Section 7006(E)(3) Ecosystem Restoration Project, Feasibility Study, Louisiana Coastal Area (LCA) Ascension and Livingston Parishes, LA, Wait Period Ends: 11/08/2010, Contact: Dr. William P. Klein, Jr. 504-862-2540.

#### Amended Notices

EIS No. 20100370, Final EIS, FHWA, WY, Jackson South Project, US/26/89/189/91 Improvements, Funding and Right-of-Way Approval, Teton County, WY, Wait Period Ends: 11/17/2010, Contact: Lee Potter 307-771-2946.

Revision to FR Notice Published 09/17/2010: Extending Comment Period from 10/18/2010 to 11/17/2010.

Dated: October 5, 2010.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2010-25470 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9212-5]

### Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board Ecological Processes and Effects Committee Augmented for Ballast Water

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

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office announces two public teleconferences of the Science Advisory Board Ecological Processes and Effects Committee, augmented, to discuss its advice on the effectiveness of shipboard ballast water treatment processes and ways to improve future assessments of ballast water treatment systems to minimize the impacts of invasive species in vessel ballast water discharge.

**DATES:** The teleconference dates are October 26, 2010, from 2 p.m. to 6 p.m.

(Eastern Time) and November 4, 2010, from 11 a.m. to 2 p.m. (Eastern Time).

**ADDRESSES:** The teleconferences will be conducted by telephone only.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing to obtain general information concerning this public teleconference should contact Ms. Iris Goodman, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), 1200 Pennsylvania Ave., NW., Washington, DC 20460; via telephone/voice mail: (202) 564-2164; fax: (202) 565-2098; or e-mail at [goodman.iris@epa.gov](mailto:goodman.iris@epa.gov). General information concerning the EPA Science Advisory Board can be found on the SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:** The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the augmented SAB Ecological Processes and Effects Committee will hold two public teleconferences to discuss their preliminary advice.

**Background:** The augmented SAB Ecological Processes and Effects Committee held a face-to-face meeting on July 29 and 30, 2010 to receive EPA briefings and to initiate its review of EPA's Office of Water's white paper that summarized performance data for selected existing ballast water technologies (75 FR 37793-3779400, June 30, 2010). Specifically, the Committee has been asked to evaluate: (1) The performance of shipboard ballast water treatment processes, based on available effluent testing data; (2) the potential for future improved performance of shipboard ballast water treatment systems; and (3) how to develop reliable information to use in future assessments of ballast water treatment technologies and systems. The purpose of these teleconferences is to discuss the preliminary advice of the Committee's subgroups addressing these issues. Background information on this advisory activity is available on the SAB Web site at [http://yosemite.epa.gov/sab/sabproduct.nsf/fedgrstr\\_activites/BW%20discharge?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedgrstr_activites/BW%20discharge?OpenDocument).

**Availability of Meeting Materials:** The agendas and other materials in support

of the teleconferences will be placed on the SAB Web site at <http://www.epa.gov/sab> in advance of each teleconference.

**Procedures for Providing Public Input:** Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Interested members of the public may submit relevant written or oral information for the SAB to consider on the topics included in this advisory activity. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. Each person making an oral statement should consider providing written comments so that the points presented orally can be expanded upon in writing. Interested individuals should contact Ms. Goodman, DFO, in writing (preferably via e-mail) at the contact information noted above by October 20, 2010, to be placed on a list of public speakers for the for the October 26, 2010 teleconference. **Written Statements:** Written statements for the October 26, 2010 teleconference should be supplied to the DFO via email at the contact information noted above, by October 20, 2010, so that the information may be made available to the SAB Committee members for their consideration and placed on the SAB Web site for public information. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with *and* without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

**Accessibility:** For information on access or services for individuals with disabilities, please contact Ms. Iris Goodman at (202) 564-2164 or [goodman.iris@epa.gov](mailto:goodman.iris@epa.gov). To request accommodation of a disability, please contact Ms. Goodman, preferably at

least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 30, 2010.

**Anthony F. Maciorowski,**  
Deputy Director, EPA Science Advisory Board  
Staff Office.

[FR Doc. 2010-25452 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2007-0092; FRL-8845-8]

### Pesticide Product Registrations; Conditional Approval

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

**ACTION:** Notice.

**SUMMARY:** This notice announces Agency approval of applications submitted by Arkema, Inc., to conditionally register the pesticide products Paladin Technical, Paladin, and Paladin EC containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**FOR FURTHER INFORMATION CONTACT:** John Bazuin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7381; e-mail address: [bazuin.john@epa.gov](mailto:bazuin.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to

assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How can I get copies of this document and other related information?*

EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0092. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

**II. Did EPA conditionally approve the application?**

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of dimethyl disulfide (DMDS), and information on social, economic, and environmental

benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of DMDS during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

**III. Conditional Approval Form**

EPA issued a notice, published in the **Federal Register** of May 1, 2009 (74 FR 20298) (FRL-8404-9), which announced that Arkema, Inc., 639 Freedom Business Center, Suite 402, King of Prussia, PA 19406, had submitted an application to conditionally register the following pesticide products:

1. Paladin Technical, a manufacturing-use product for formulation of pre-plant soil fumigant end-use products (EPA File Symbol 55050-G), containing 99.8% dimethyl disulfide, an active ingredient not included in any previously registered product;
2. Paladin, an end-use product for pre-plant soil fumigant use (EPA File Symbol 55050-U), containing 98.8% dimethyl disulfide; and
3. Paladin EC, an end-use product for pre-plant soil fumigant use (EPA File Symbol 55050-L), containing 93.8% dimethyl disulfide.

The following dimethyl disulfide product applications were conditionally approved on July 9, 2010:

- i. The manufacturing-use product Paladin Technical (EPA Registration Number 55050-3).
- ii. The end-use product Paladin (EPA Registration Number 55050-4) for pre-plant soil fumigant use on soil that will be used to grow fruiting vegetable (tomato, pepper, and eggplant), cucurbit vegetable (cucumber, squash (all types), and melon (all types)), small fruit (blueberry and strawberry), ornamental (field grown), and forest nursery crops.
- iii. The end-use product Paladin EC (EPA Registration Number 55050-5) for pre-plant soil fumigant use on soil that will be used to grow fruiting vegetable (tomato, pepper, and eggplant), cucurbit

vegetable (cucumber, squash (all types), and melon (all types)), small fruit (blueberry and strawberry), ornamental (field grown), and forest nursery crops.

**List of Subjects**

Environmental protection, Chemicals, Pests and pesticides.

Dated: September 27, 2010.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 2010-25433 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9212-3]

**Notice of Tentative Approval and Solicitation of Request for a Public Hearing for Public Water System Supervision Program Revision for the Commonwealth of Virginia**

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

**ACTION:** Notice of tentative approval and Solicitation of Requests for a Public Hearing.

**SUMMARY:** Notice is hereby given in accordance with the provision of section 1413 of the Safe Drinking Water Act, as amended, and the requirements governing the National Primary Drinking Water Regulations Implementation, 40 CFR Part 142, that the Commonwealth of Virginia is revising its approved Public Water System Supervision Program. The Commonwealth has adopted the Arsenic Rule which will provide for better public health protection by lowering the maximum contaminant level (MCL) from 0.05 to 0.010 mg/L and by demonstrating monitoring compliance for new systems or sources of drinking water. EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. EPA is taking action to tentatively approve these program revisions. All interested parties are invited to submit written comments on this determination and may request a public hearing.

**DATES:** Comments or a request for a public hearing must be submitted by November 8, 2010. This determination shall become effective on November 8, 2010 if no timely and appropriate request for a hearing is received and the Regional Administrator does not elect on his own to hold a hearing, and if no comments are received which cause EPA to modify its tentative approval.

**ADDRESSES:** Comments or a request for a public hearing must be submitted to the U.S. Environmental Protection Agency Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Comments may also be submitted electronically to [Hoover.Michelle@epa.gov](mailto:Hoover.Michelle@epa.gov). All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

- Drinking Water Branch, Water Protection Division, U.S. Environmental Protection Agency Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

- Office of Drinking Water, Virginia Department of Health, Madison Building, 6th Floor, 109 Governor Street, Room 632, Richmond, VA 23219.

**FOR FURTHER INFORMATION CONTACT:**

Michelle Hoover, Drinking Water Branch at the Philadelphia address given above; telephone (215) 814-5258 or fax (215) 814-2318.

**SUPPLEMENTARY INFORMATION:** All interested parties are invited to submit written comments on this determination and may request a public hearing. All comments will be considered, and, if necessary, EPA will issue a response. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by November 8, 2010, a public hearing will be held. A request for public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Dated: September 30, 2010.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2010-25460 Filed 10-7-10; 8:45 am]

**BILLING CODE 6560-50-P**

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## FEDERAL ELECTION COMMISSION

### Sunshine Act Notices

**DATE AND TIME:** Tuesday, October 5, 2010, at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**PERSON TO CONTACT FOR INFORMATION:**

Judith Ingram, Press Officer *Telephone:* (202) 694-1220.

**Shawn Woodhead Werth,**

*Secretary and Clerk of the Commission.*

[FR Doc. 2010-25048 Filed 10-7-10; 8:45 am]

**BILLING CODE 6715-01-M**

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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

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 shares of 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 offices 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 October 25, 2010.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Clay P. Graham, individually, and with Bryan H. Graham, both of Zanesville, Ohio, and the Estate of James F. Graham, Zanesville, Ohio, acting in concert; to acquire voting shares of North Valley Bancshares, Inc., and thereby indirectly acquire voting shares and control of the North Valley Bank, both of Zanesville, Ohio.

Board of Governors of the Federal Reserve System, October 5, 2010.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2010-25385 Filed 10-7-10; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL TRADE COMMISSION

### Statement of Policy Regarding Communications in Connection With Collection of a Decedent's Debt

**AGENCY:** Federal Trade Commission.

**ACTION:** Request for public comment.

**SUMMARY:** The Federal Trade Commission ("FTC" or "Commission") requests public comment on a proposed statement of enforcement policy regarding communications in connection with collection of a decedent's debts.<sup>1</sup> The statement addresses three issues pertaining to debt collectors who attempt to collect on the debts of deceased debtors. First, the proposed statement announces that the FTC will not bring enforcement actions for violations of Section 805(b) of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. 1692c(b), against collectors who, in connection with the collection of a decedent's debt, communicate with a person who has authority to pay the decedent's debts from the assets of the decedent's estate. Second, the proposed statement clarifies how a debt collector may locate the appropriate person with whom to discuss the decedent's debt. Third, the proposed statement emphasizes to collectors that misleading consumers about their personal obligation to pay a decedent's debt is a violation of the FDCPA and Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45.

**DATES:** Public comments must be received by November 8, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the Invitation To Comment part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: <https://ftcpublic.commentworks.com/ftc/deceaseddebtcollection> (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex W), 600 Pennsylvania Avenue,

<sup>1</sup> An enforcement policy statement describes the Commission's future enforcement plans, goals, and objectives with respect to a particular industry or practice. Enforcement policy statements do not have the force or effect of law, but they may reflect the Commission's interpretation of a legal requirement. The Commission issues this proposed statement pursuant to its general legal authority to enforce the Fair Debt Collection Practices Act, 15 U.S.C. 1692(a), and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

NW., Washington, DC 20580, (202) 326-2252.

**FOR FURTHER INFORMATION CONTACT:**

Christopher Koegel or Quisaira Whitney, Attorneys, Division of Financial Practices, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3224.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Media reports and a Congressional inquiry have raised concerns that some debt collectors may be violating federal consumer protection laws when they attempt to collect debts from the relatives of deceased debtors (“decedents”).<sup>2</sup> Staff has investigated whether, in connection with the collection of decedents’ debts, debt collectors have contacted persons other than those they are permitted to contact under Section 805(b) of the FDCPA, 15 U.S.C. 1692c(b). Section 805(b) prohibits collectors, with certain exceptions, from communicating with any person other than the consumer in connection with the collection of the consumer’s debt. Section 805(d) provides that the term “consumer,” for purposes of third-party contacts, includes “the consumer’s spouse, parent (if the consumer is a minor), guardian, executor, or administrator.”<sup>3</sup>

Staff also has investigated whether collectors have engaged in unfair or deceptive acts and practices in violation of Section 5 of the FTC Act or Sections 807 or 808 of the FDCPA, 15 U.S.C. 1692e and 1692f, in collecting or attempting to collect on decedents’ debts. In particular, staff has evaluated whether collectors may have deceived relatives of decedents or others about their obligation to pay the decedent’s debts.

Although these investigations have been closed, they revealed that, because of the interaction of the FDCPA and state probate laws, there is a great deal of uncertainty among collectors regarding who the proper persons are with whom they lawfully may discuss a

decedent’s debt. In their efforts to identify the person who is responsible for paying the decedent’s debts, collectors in many cases have contacted persons other than those who fall within the definition of “consumer” set forth in Section 805(d) of the FDCPA.

Section 805(b) of the FDCPA was enacted in 1977 to specify, among other things, the persons whom collectors may contact to seek payment for the debts of decedents. Since that time, however, probate law and practice have evolved. Many states have streamlined their probate law and practice by, among other things, recognizing informal probate processes and independent estate administration with little or no court supervision. In addition, a sizable portion of decedents’ assets often now are transferred to others outside of the probate process through techniques such as placing assets in trust or naming an individual (rather than the decedent’s estate) as the beneficiary of the decedent’s life insurance policies.<sup>4</sup>

In response to these developments, the Commission is publishing this proposed enforcement policy statement (“Statement”) to clarify how it intends to enforce the FDCPA and Section 5 of the FTC Act in connection with the collection of decedents’ debts.

**II. The Resolution of Estates**

*A. The Decedent’s Estate*

When a consumer dies, his or her assets are transferred to others. These transfers take place either as part of the distribution of the decedent’s estate or outside of the estate. Assets that pass outside of the estate include: (1) those that are jointly owned by the decedent and another person;<sup>5</sup> and (2) those that, for public policy reasons, pass directly to individuals named as beneficiaries. Some common examples of assets that do not become part of the estate are the proceeds of joint bank accounts, real property held by joint tenancy, life insurance policies,<sup>6</sup> union or pension benefits, Social Security benefits, veterans benefits, and various types of retirement accounts. Assets that never

become part of the decedent’s estate generally are beyond the reach of creditors and debt collectors. All other assets, including cash and real and personal property that are not jointly owned, become part of the decedent’s gross estate. Funeral and administrative expenses, homestead and exempt property allowances, and family allowances<sup>7</sup> are paid out of the probate estate first, leaving the net estate. Creditors and debt collectors can seek to collect amounts the decedent owes them from the net estate,<sup>8</sup> after which the remaining assets in the estate are transferred to the decedent’s heirs (if the decedent died without a will) or beneficiaries (if the decedent had a will).

*B. Probate Law and Estate Distribution*

Probate practices are administered under state laws and procedures that vary significantly. Nineteen states<sup>9</sup> have adopted the Uniform Probate Code (“UPC”), which was intended to make probating a will and administering an estate simpler and less expensive, and to give more flexibility to executors.<sup>10</sup> Each state that has adopted the UPC, however, has modified it, in some cases extensively.<sup>11</sup> Consequently, although

<sup>7</sup> A “family allowance” is an amount of money payable out of the probate estate to support, typically, the spouse and minor children during the pendency of the estate administration.

<sup>8</sup> In some circumstances, another person may be personally liable for the decedent’s debts. Examples include a person who shared a joint credit card account with the decedent or who co-signed or guaranteed repayment of credit extended to the decedent. In such cases, both the other person and the decedent’s estate are liable for the account balance at the time of the decedent’s death. This Statement does not apply if a creditor or a collector is collecting from a person who is personally liable for the decedent’s debt, because in those circumstances the person is a debtor rather than a third party for purposes of Section 805(b) of the FDCPA.

<sup>9</sup> Alaska, Arizona, Colorado, Hawaii, Idaho, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New Mexico, North Dakota, Pennsylvania, South Carolina, South Dakota, Utah, and Wisconsin.

<sup>10</sup> UPC, Article III, Part 12, General Comment (2006).

<sup>11</sup> See, e.g., Alaska—Adopted 1990 Revision of Article II and 1989 Revision of Article VI—Alaska Stat. §§ 13.6.5–13.36.100; Arizona—Adopted 1990 Revision of Article II and 1989 Revision of Article VI—Ariz. Rev. Stat. Ann. §§ 14–1101 to 14–7308; Colorado—Adopted 1990 Revision of Article II and 1989 Revision of Article VI—Colo. Rev. Stat.—§§ 15–10–101 to 15–17–102; Florida—Adopted 1989 Revision of Article VI—Fla. Stat.—§§ 655.82, 711.50–711.512, 731.005–731.302, 735.101–735.302, and 737.101–737.512; Hawaii—Adopted 1990 Revision of Article II and Part 3 of 1989 Revision of Article VI—Haw. Rev. Stat. §§ 539–1 to 539–12, and 560:1–101 to 560:8–101; Idaho—Adopted Part 3 of 1989 Revision of Article VI—Idaho Code Ann. §§ 15–1–101 to 15–7–307; Maine—Adopted Part 3 of 1989 Revision of Article VI—Me. Rev. Stat. Ann. tit.18A § 1–101 to § 8–401; Michigan—Adopted Part 3 of 1989 Revision of

<sup>2</sup> See, e.g., *You’re Dead? That Won’t Stop the Debt Collector*, N.Y. Times, Mar. 4, 2009; Dana Dratch, *What Happens to Credit Card Debt after Death*, CreditCards.com, Apr. 16, 2010, <http://www.creditcards.com/credit-card-news/credit-card-debt-death-1282.php>.

<sup>3</sup> Neither the language of the FDCPA nor its legislative history address what is meant by the terms “executor” and “administrator” in Section 805(d). Broadly, an “executor” is a person named by the maker of a will to carry out the directions and requests stated in the will, and an “administrator” is a person appointed by a court to handle the administration of an estate for someone who has died without a will, when there is no executor named in the will, or the person named cannot or will not serve as executor.

<sup>4</sup> See Grayson M.P. McCouch, *Probate Reform and Nonprobate Transfers*, 62 U. Miami L. Rev. 757 (Apr. 2008).

<sup>5</sup> In the ten community property states, assets accumulated during a marriage generally are considered joint property, but the state laws vary as to which assets of the community can be reached by creditors of one of the spouses. The ten community property states are Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

<sup>6</sup> If the decedent’s estate is named as the beneficiary under the life insurance policy, however, the proceeds of the policy become part of the decedent’s estate.

the UPC creates some commonality among state probate laws, there is no single set of laws that applies in all or even most states.<sup>12</sup>

Probate law seeks to provide finality to those with a purported interest in estate assets by first distributing those assets to pay the funeral and estate administration expenses and family allowances, decedent's taxes, and creditors' allowed claims, and then distributing the remaining assets to beneficiaries as specified by a will, or heirs as specified by state intestacy laws. The Uniform Probate Code and similar state laws have created a "flexible system of administration" designed to provide persons interested in decedents' estates with the level of procedural and adjudicative safeguards as desired and appropriate for their circumstances.<sup>13</sup> Although there are variations among the states, there are generally three ways of administering the distribution of any estate's assets: formal probate and administration; informal probate and administration; and universal succession or succession without administration. In addition, the Uniform Probate Code and state laws generally exempt certain "small estates" with no real property from probate and administration.<sup>14</sup> The laws provide two additional ways of implementing the distribution of the small estate's assets: collection of personal property using an out-of-court affidavit process and a process known as "summary administration." Extrajudicial

Article VI—Mich. Comp. Laws §§ 700.1101–700.8102, and 701.1–713.6; Minnesota—Adopted 1990 Revision of Article II—Minn. Stat. § 524.1–101 to § 524.8–103; Montana—Adopted 1990 revision of Article II and 1989 Revision of Article VI—Mont. Code Ann. § 72–1–101 to § 72–6–311; Nebraska—Adopted 1989 Revision of Article VI—Neb. Rev. Stat. § 30–2201 to § 30–2902; New Mexico—Adopted 1990 Revision of Article II and 1989 Revision of Article VI—N.M. Stat. § 45–1–101 to § 45–7–522; North Dakota—Adopted 1990 Revision of Article II and 1989 Revision of Article VI—N.D. Cent. Code § 30.1–01–01 to 30.1–35–01; South Carolina—Adopted Part 3 of 1989 Revision of Article VI—S.C. Code Ann. §§ 35–6–10 to 35–6–100, and 62–1–100 to 62–7–604; South Dakota—Adopted 1990 Revision of Article II and Part 3 of 1989 Revision of Article VI—S.D. Codified Laws § 29A–1–101 to § 29A–8–101; Utah—Original 1969 version still in effect—Utah Code Ann. § 75–1–101 to § 75–8–101.

<sup>12</sup> Indeed, even individual counties in some states have their own requirements.

<sup>13</sup> See, e.g., UPC, Article III, General Comment.

<sup>14</sup> For example, in California, probate and administration is required if the amount of the estate is greater than \$100,000. Cal. Prob. Code § 13100 (2009). In Alabama, however, probate and administration is required if the value of the estate exceeds \$25,000. Ala. Code § 43–2–692 (2010). As noted above, the probate estate does not include assets held in joint tenancy or certain other types of assets, such as life insurance policies or retirement plans, unless the estate is named as the beneficiary.

disposition of decedents' assets also occurs, whereby heirs distribute the assets without any procedural or adjudicative safeguards provided by the state probate codes.

### 1. Formal Probate and Administration

Formal probate and administration requires a court-appointed executor (a person designated in the will by the decedent) or administrator (if no executor has been designated) to assume the responsibility of managing, distributing, and closing the estate, including collecting the decedent's assets and notifying creditors of the pending probate proceeding. Formal probate entails court supervision and approval of all or part of the probate proceeding and imposes significant reporting requirements on the executor or administrator. Most state probate laws require that formal probate and administration be used if either the ability of the executor named in the will to administer the estate is uncertain or there is concern that the beneficiaries (such as minors) cannot look after their own interests. In addition, most state laws require that formal probate and administration be used if someone (such as a beneficiary or a creditor) asserts the right to invoke probate procedures to protect his or her interest in the estate.

Formal probate and administration is designed to provide notice, opportunity to participate, and finality to all who assert a claim to the estate's assets. To this end, the executor or administrator must attempt to notify creditors of the decedent's death and the deadline for submitting any claims against the estate. In addition to mailing notice to all known creditors, many states require that notice be published multiple times in a newspaper having general circulation in the city where the decedent lived or in the county where the probate proceedings are being held.

Creditors have a fixed period of time to file a claim, after which all claims are barred. If the claim is approved, the bill is paid out of the estate; if it is rejected, the creditor may sue for payment. If there are not enough liquid assets to pay all debts, property in the estate may have to be sold to pay approved creditor claims. State laws vary as to the order in which debts are paid.<sup>15</sup>

Although formal probate and administration has advantages in terms of ensuring that all persons with an interest in the estate have an opportunity to assert their interests, it also can be time-consuming and

expensive.<sup>16</sup> To address these concerns, especially with respect to smaller estates, many jurisdictions have adopted alternative methods to settle and close certain types of estates that reduce or obviate the need for intervention by the probate courts. These methods are described further below. A substantial number of estates no longer go through the formal probate and administration process.

### 2. Informal Probate and Administration

States that have adopted the UPC also have what is described as an "informal probate and administration" process, which is available regardless of the size of the estate.<sup>17</sup> According to the drafters of the UPC, informal probate and administration is designed to keep simple wills and intestacies that generate no controversy from becoming involved in "truly judicial proceedings."<sup>18</sup> Thus, no court hearings are required in this process.

To begin the informal probate and administration process, a person must apply to the probate registrar for an informal appointment as executor or administrator. Thereafter, many states refer to this person as the "personal representative." Once appointed, the personal representative has official authority to act on behalf of the estate. Among other things, the personal representative must arrange for publication of notice of the appointment as well as notice to creditors.

Under the UPC, creditors have four months from the date of first publication of the notice of appointment in which to file any claims against the estate, after which they become time-barred.<sup>19</sup> After the personal representative has resolved any claims and the four months have elapsed, the personal representative must file with the court the "final account" of the decedent's assets and provide a copy to all appropriate parties. The personal representative may then distribute the assets to the beneficiaries and heirs.

### 3. Universal Succession or Succession Without Administration

The UPC and similar state laws provide an alternative to formal or

<sup>16</sup> The delay and expense are mostly attributable to the greater detail and accountability the court requires of the estate's executor or administrator. Formal probate and administration may take from one to three years to be completed. See, e.g., *id.* at 319–20.

<sup>17</sup> See, e.g., UPC §§ 3–301–3–311.

<sup>18</sup> UPC § 3–302 Comment (italics in original). Accordingly, informal probate and administration is not available if there is a known series of testamentary instruments, such as multiple wills signed by the decedent. UPC § 3–304.

<sup>19</sup> UPC § 3–801.

<sup>15</sup> See Mary Randolph, *The Executor's Guide* 185–186 (3d ed. 2008).

informal probate, a process referred to in the UPC as “universal succession” or “succession without administration.”<sup>20</sup> Under this approach, the heirs of an intestate estate or the residual devisees<sup>21</sup> under a will may apply to the probate registrar to become universal successors. Upon the registrar’s granting of the application, the universal successor assumes full ownership of all the assets and full, personal responsibility for the liabilities of the estate, even if the decedent was insolvent, up to the universal successor’s proportional share of the estate.<sup>22</sup> Under the UPC, all claims of the decedent’s creditors against the universal successor are barred one year after the decedent’s death.<sup>23</sup>

#### 4. Small Estate Resolution

Many states offer two alternatives to the procedures described above for distributing the assets of small estates: (a) an out-of-court affidavit procedure, which lets beneficiaries claim assets from whomever has possession of them by presenting a sworn statement explaining why they are entitled to the property; and (b) summary administration, which is similar to informal probate and administration. These procedures are designed to make it easier and less expensive for consumers to resolve small estates—in most cases, they take only a month or two, have minimal court involvement, require few filings, and do not entail attorneys’ fees—and also reduce the administrative and financial burdens on states and counties. According to the UPC commenters, most people are able to use the “small estate” procedures to resolve estates.<sup>24</sup>

##### a. Out-of-Court Affidavit

Many states allow for small estate assets to be distributed through an affidavit process, eliminating altogether the need for appointment of an executor or administrator or for probate court administration.<sup>25</sup> State laws vary as to who qualifies to sign an affidavit (“affiant”). For example, in California, only a beneficiary of or heir (*i.e.*, a “successor of the decedent”) to the property sought is authorized to file an

affidavit.<sup>26</sup> In Alaska, however, any person claiming to be the successor of the decedent entitled to the property may submit an affidavit, and the person paying for or delivering the property to the affiant is not required to inquire into the truth of any statement in the affidavit.<sup>27</sup>

The transfer affidavit typically must state that: (1) The claimant is legally entitled to inherit the decedent’s assets; (2) the value of the entire estate, less liens, does not exceed the maximum amount permitted by state law; (3) a minimum number of days (often 30 to 45) has elapsed since the death; and (4) no petition for the appointment of an executor or administrator is pending or has been granted by a probate court.<sup>28</sup> Frequently, the affiant also must declare that the debts of the decedent have been satisfied.<sup>29</sup> These same laws often hold either the affiant, or the beneficiaries to whom assets are distributed, personally liable for the decedent’s debts, up to the value of the asset they received, for a period of time after title is transferred.<sup>30</sup>

##### b. Summary Administration

Summary administration procedures generally are very similar to informal probate and administration procedures—they require little court involvement or supervision and can be used whether or not the decedent left a will. Summary administration, however, is limited to small estates, as defined by state law, and requires less notice to creditors than informal probate.<sup>31</sup>

Summary administration procedures are usually available if: (1) Assets do not exceed a specified value; (2) no interested party (such as a creditor) objects to the use of those procedures; and (3) a will does not mandate a different procedure. In Florida, for example, summary administration is available when the decedent’s will does not direct otherwise, and either the value of assets subject to probate does

not exceed \$75,000 or the decedent has been dead for more than two years.<sup>32</sup> Surviving family members may petition the probate court for a distribution of the estate assets. The petitioners must make a diligent search and reasonable inquiry to identify any creditors who have a claim against the estate, serve a copy of the petition on those creditors, and provide for payment to those creditors to the extent that assets are available. At that point, the court may enter an order of summary administration allowing immediate distribution of the remaining assets to the persons entitled to them.<sup>33</sup>

#### 5. Extra-Judicial Resolution of Estates

If an estate has only minimal assets, many survivors choose to forgo the use of any legal process to distribute a decedent’s assets. An individual (usually a family member) may pay the decedent’s debts out of the assets of the estate. It appears that a significant number of very small estates are resolved in this manner.

This method forgoes some of the benefits of the probate process, such as obtaining a final legal resolution and the barring, after a specified period of time, of claims of creditors against the assets of the estate. Thus, if a creditor or collector sues the individual who distributes the assets or the recipients of those assets, they are potentially liable to pay an unpaid debt of the decedent up to the amount of the estate’s assets.

### III. FTC Policy Statement on Collection of Decedent’s Debts

When Congress passed the FDCPA, it sought to protect consumers from abusive, deceptive, and unfair debt collection practices, as well as unwarranted invasions of privacy.<sup>34</sup> At the same time, Congress also recognized that the collection of legitimate debts, so long as it is done in a fair and honest manner, by requiring people to honor their obligations and decreasing the cost of credit, is thus beneficial to consumers.

Section 805(b) of the FDCPA, with certain exceptions, prohibits debt collectors from communicating with

<sup>20</sup> Fla. Stat. § 735.201 (2009).

<sup>31</sup> *Id.* § 735.206. The recipients of the decedent’s property remain personally liable for lawful claims against the estate to the extent of the value of the property each actually received, but no claim may be filed against the estate or the recipients of the estate assets more than two years after the decedent’s death.

<sup>32</sup> See S. Rep. No. 95–3821, at 4 (1977), as reprinted in 1977 U.S.C.C.A.N. 1695. (“This legislation \* \* \* prohibits disclosing the consumer’s personal affairs to third persons. Other than to obtain location information, [ ] such contacts are not legitimate collection practices and result in serious invasions of privacy.”)

<sup>20</sup> UPC §§ 3–312–3–322.

<sup>21</sup> A “residual devisee” is the person named in a will who takes any property that remains after distributions specified in the will.

<sup>22</sup> See, e.g., UPC § 3–321.

<sup>23</sup> UPC § 3–1006.

<sup>24</sup> UPC, Article III, Part 12, General Comment.

<sup>25</sup> See, e.g., Cal. Prob. Code § 13109 (2009); 755 Ill. Comp. Stat. 5/25–1 (2010); Alaska Stat. § 13.16.680 (2010); Ariz. Rev. Stat. § 14–3971 (2010); Colo. Rev. Stat. § 15–12–1201 (2009); Ark. Code Ann. § 28–41–101 (2009).

<sup>26</sup> See Cal. Prob. Code §§ 13101(a)(8) and 13006.

<sup>27</sup> Alaska Stat. §§ 13.16.680(a) and 13.16.685.

<sup>28</sup> See, e.g., Cal. Prob. Code § 13101 (2009); Colo. Rev. Stat., § 15–12–1201 (2009), Ariz. Rev. Stat. § 14–3971 (2010); Ark. Code Ann. § 28–41–1101 (2009); 755 Ill. Comp. Stat. 5/25–1 (2010).

<sup>29</sup> See, e.g., Ark. Code Ann. § 28–41–101 (2009); 755 Ill. Comp. Stat. 5/25–1 (2010).

<sup>30</sup> See, e.g., Cal. Prob. Code § 13109 (2009) (3 years); 755 Ill. Comp. Stat. 5/25–1 (2010) (2 years); Ark. Code Ann. § 28–41–102 (2009) (same as decedent); Ariz. Rev. Stat. § 14–3972 (2010) (1 year); Alaska Stat. § 13.16.685 (2010) (3 years); Colo. Rev. Stat. § 15–12–1201 (2009) (1 year).

<sup>31</sup> See, e.g., Mark T. Johnson, Comment, A “Simple” Probate Should Not Be This Complicated: Principles and Proposals for Revising Wisconsin’s Statutes for Probate Summary Procedures, Table 1: Comparison of Informal Probate, Summary Settlement, Summary Assignment, and Transfer by Affidavit, 2008 Wis. L. Rev. 575, 585 (2008).

anyone other than the “consumer” whose debt is being collected. This prohibition prevents debt collectors from unnecessarily revealing debts to others and thereby inflicting harm to the privacy and reputation of the debtor.<sup>35</sup> It also prevents collectors from communicating with those who have no legal responsibility for paying the debt.

Section 805(d) expands the definition of a “consumer” whom a collector can contact, but, for purposes of collecting on a deceased debtor’s debts, only to those who are likely to be responsible for paying a decedent’s debts out of the assets of the estate. Thus, Section 805(d) includes the debtor’s “spouse, parent (if the consumer is a minor), guardian, executor, or administrator” as persons the collector can contact about a debt. As discussed above, however, probate law and practice have evolved since Congress passed the FDCPA, and there are now additional categories of persons who have the authority to pay the decedent’s debts from the assets of the estate. These include personal representatives under the informal probate and summary administration procedures of many states, persons appointed as universal successors, persons who sign declarations or affidavits to effectuate the transfer of estate assets, and persons who dispose of the decedent’s assets extrajudicially.

The Commission believes that it is consistent with the purposes of the FDCPA, and in the public interest, to allow debt collectors to communicate with the person who has authority to pay a decedent’s debts from the assets of the estate, even if that person does not fall within the specific categories listed in Section 805(d). Such communications do not reveal the decedent’s debts unnecessarily because they are made to an individual who has authority to pay those debts from the assets of the estate. Moreover, permitting such communications often would make it faster, simpler, and less expensive for consumers, creditors, and collectors to resolve the decedent’s debts without unduly burdening the decedent’s representative or beneficiaries. Such communication benefits both creditors and consumers by facilitating appropriate payments without the need for creditors to initiate formal probate administration or file actions in court to recover from

<sup>35</sup> Other FDCPA provisions similarly are intended to protect the privacy of consumers. Section 806(3) prohibits publishing a debtor’s list, Section 808(7) prohibits communicating with a consumer regarding a debt by post card, and Section 808(8) prohibits using any language or symbol on an envelope that reveals that the sender is a debt collector. 15 U.S.C. 1692d, 1692f(7), 1692f(8).

individuals who have distributed the estate’s assets, or received the assets that were distributed, without proper notice to creditors. But, when seeking payment for a decedent’s debt from an individual not personally liable for the debt, in order to avoid creating the misimpression that the individual is personally liable for the decedent’s debt, it may be necessary for the collector to disclose clearly and prominently that the collector is seeking payment from the estate and not the individual.

Accordingly, the Commission proposes a policy not to initiate enforcement actions against debt collectors who communicate about a decedent’s debt with: (1) The executor or administrator of the decedent’s estate; (2) the decedent’s spouse; (3) a minor decedent’s parent; (4) the decedent’s guardian; or (5) a person who otherwise has authority to pay the debts of the decedent out of the decedent’s assets, such as a personal representative under an informal or summary administration procedure, a person appointed as a universal successor, a person who signs a declaration or affidavit to effectuate the transfer of estate assets, or a person who assumes the responsibility of disposing of the decedent’s assets extrajudicially.

Before communicating with any individual in connection with the collection of a decedent’s debt, a collector must assess whether the potential recipient of any such communication has authority to pay the decedent’s debts from the estate’s assets (i.e., falls within one of the categories listed above). In many cases, the collector will know that it is contacting the decedent’s spouse, parent, or guardian, or a person appointed by the probate court or the registrar to administer the decedent’s estate. For example, the collector’s review of the probate registrar’s filings would identify persons who have been appointed as executor, administrator, personal representative under informal or summary administration, or universal successor. If the collector has identified the person with such authority, it may direct communications seeking collection of the debt to that person. In seeking to have these individuals pay the decedent’s debts out of the decedent’s estate, the collector must comply with all of the requirements of the FDCPA and Section 5 of the FTC Act with respect to collector communications with debtors. For instance, the collector is prohibited from threatening to use violence against these individuals in violation of Section 806 of the FDCPA, and from falsely representing to them the amount of the

debt owed—or the assets that must be used to pay the debt—in violation of Section 807(2)(A) of the FDCPA and Section 5 of the FTC Act.

In some cases, even if a collector has reviewed probate court filings and records, the collector may not know who has the authority to pay the decedent’s debts from the estate’s assets. To locate the person with such authority, the collector may initiate a written or oral communication to the decedent’s estate. The collector should state clearly and prominently at the outset that the communication is directed to the executor or administrator of the decedent’s estate, or to the estate itself. But until a named individual with authority to pay the decedent’s debts is identified and located, collectors generally should treat these communications as location communications under Section 804 of the FDCPA. The communication should state that the collector is seeking to identify and locate the person who has the authority to pay any outstanding bills of the decedent out of the decedent’s estate,<sup>36</sup> but cannot make any other references to the debts of the decedent, including providing any information about the specific debts at issue.<sup>37</sup>

<sup>36</sup> For example, if a collector is seeking to identify and locate the person who has the authority to pay the decedent’s debts out of the assets of the estate, the collector may send a letter in an envelope addressed to either “The Estate of \* \* \*” or “The executor or administrator of the estate of \* \* \*.” The body of the enclosed letter, however, cannot include information relating to the decedent’s debt. As discussed elsewhere in this statement, some individuals who do not have the authority to pay the debts of the decedent out of the assets of his estate often undertake various activities concerning the decedent, including opening his mail. To avoid thereby revealing the decedent’s debts to such individuals, collectors should not include information relating to these debts in the body of the letter.

<sup>37</sup> Section 804 of the FDCPA governs the process by which a collector can obtain location information for a debtor. That section prohibits collectors, in seeking location information, from revealing that the debtor owes a debt. The application of this provision is relatively straightforward in the typical situation involving a living debtor—the collector knows who the debtor is but simply lacks contact information, such as the debtor’s home address and telephone number or place of employment. In this situation, the collector may contact a third party for location information for the debtor and has no need to ascertain who the debtor is or mention the debt.

When the debtor is deceased, however, the procedure becomes more complicated. The collector must first identify the person who has authority to pay the decedent’s debts out of the estate’s assets. In some cases, collectors will know who that person is, for example, if a court has named an executor or administrator; in these cases, the collector, if it needs contact information, can follow the normal process of seeking such information from a third party without revealing the debt.

If the recipient of the location communication states with certainty that he or she has the requisite authority—and that assertion is not inconsistent with information reasonably available from another source (e.g., a probate registrar identifying the appointment of someone else as administrator)—collectors may commence seeking payment from the estate through that recipient. On the other hand, if the recipient expresses any uncertainty about whether he or she has the authority to pay the decedent's debts from the estate's assets (e.g., "I think it is me" or "it could be me"), the collector may ask the recipient clarifying questions. The collector, however, should not use leading questions or otherwise attempt to persuade the person to assert that he or she has the requisite authority, or engage in any deceptive, unfair, or abusive acts or practices. For example, asking if the person contacted is "handling the decedent's final affairs" is so vague that the person may interpret it as signifying authority when it does not. Similarly, asking whether a person "paid for the decedent's funeral," or is "opening the decedent's mail" also would not provide sufficient evidence of authority, because relatives often undertake these types of activities to help out without assuming the general authority to pay the decedent's debts out of the estate's assets.<sup>38</sup> Furthermore,

If the collector does not know the identity of the person with authority to pay the decedent's debts from the estate, it may wish to contact third parties who may themselves have the requisite authority or know who does, and then seek location information for the person they identify. But, in asking a third party for identification and location information for a person with the requisite authority, the collector almost inevitably will have to state or imply that the decedent owed a debt, for example "I am trying to find the person who has the authority to pay John Smith's outstanding bills out of assets in John's estate." The Commission is interested in comments on: (1) Whether such a limited and general reference to debt in these specific circumstances would result in harm to the decedent's privacy or reputation, especially given that even consumers who remained current on their debts while alive often have bills their estate must resolve after they pass away; (2) other appropriate ways of identifying the person with authority while minimizing any reference to the decedent's debts, consistent with Section 804(2); and (3) the relative costs and benefits of facilitating communications between collectors and individuals who have the authority to pay the decedent's debts, including, for example, the possible harm to the decedent's privacy interests from revealing the debt versus the possible benefits to consumers in fostering the efficient payment of debts without the costs and inconvenience of a formal probate process or litigation.

<sup>38</sup> In addition, simply asking if the person "has paid any of the decedent's bills" is not conclusive evidence that the person has the authority. See UPC § 3-701 ("A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a

in seeking to have those who assert they have the requisite authority (including those who make such an assertion in response to clarifying questions) pay the decedent's debts from the estate, the collector must comply with all other requirements of the FDCPA and Section 5 of the FTC Act regarding collector communications with debtors.<sup>39</sup>

Finally, in communicating with persons who have the authority to pay the decedent's debts out of the estate's assets, the Commission emphasizes that it would violate Section 5 of the FTC Act and Section 807 of the FDCPA to mislead those persons about whether they are personally liable for those debts, or about which assets a creditor could legally seek to satisfy those debts.<sup>40</sup> Even in the absence of any specific representations,<sup>41</sup> depending on

personal representative."'). But until a named individual with authority to pay the decedent's debts is identified and located, all communication may only be for the purpose of seeking location information for that person and must comply with Section 804 of the FDCPA.

<sup>39</sup> If a recipient of a communication denies having the authority, or is not certain if he or she has the authority, to pay the decedent's debts out of the assets of the estate, and if in the future the collector reasonably believes that the response was erroneous or incomplete and that the recipient now has correct or complete information as to who has the requisite authority, then the collector can contact the recipient again for location information. FDCPA § 804(3), 15 U.S.C. 1692b(3). For example, assume that a decedent died intestate and was survived by a brother and sister. A collector calls the brother shortly after the decedent's death, and the brother states he does not know whether he or his sister will have the authority to distribute the decedent's assets. A court subsequently appoints the sister as the administrator of the decedent's estate, and the collector learns of the appointment, but the sister's location information provided in the appointment is no longer accurate. The collector would be allowed to contact the brother for more accurate information concerning how to reach his sister.

In addition, if the initial communication recipient subsequently is appointed as the administrator or personal representative through formal or informal probate or files an affidavit under the "small estate" administration provisions, the collector then may contact that person in connection with the collection of the debt.

<sup>40</sup> There are times when a collector attempts to collect a decedent's debt from the person with the requisite authority, but learns that the decedent's estate has insufficient assets to pay the debt. In some instances, collectors in this situation attempt to persuade the person to pay the debt out of her own assets. In doing so, the collector must avoid (1) stating or implying that the person has a legal obligation to use her own assets to pay the debt, in violation of Section 807 of the FDCPA and/or Section 5 of the FTC Act; and (2) engaging in harassing, oppressive, or abusive conduct to collect the debt in violation of Section 806 of the FDCPA and/or Section 5 of the FTC Act. With respect to the latter, the Commission notes that using high pressure tactics, which could include appeals to the person's purported moral obligation to pay the debt, could violate Section 806 of the FDCPA and/or Section 5 of the FTC Act, depending on the specific facts of the case.

<sup>41</sup> Simply by virtue of the fact that the communication is coming from a debt collector, an

the circumstances, a collector's communication with an individual might convey the misimpression that the individual is personally liable for the decedent's debts, or that the creditor could seek certain assets to satisfy the debt.<sup>42</sup> To avoid creating such a misimpression, it may be necessary for the collector to disclose clearly and prominently that: (1) It is seeking payment from the assets in the decedent's estate; and (2) the individual could not be required to use the individual's assets or assets the individual owned jointly with the decedent to pay the decedent's debt. In determining whether individuals are taking away the misimpression that they are personally liable for the decedent's debts, the Commission will consider, among other things, whether the collector has clearly and prominently made this disclosure. The Commission will also consider whether the collector has obtained an acknowledgment at the time of the first payment that the person understands that he or she is obligated to pay debts only out of the decedent's assets and is not legally obligated to use his or her own assets—including those jointly owned with the decedent—to pay the debts.

### III. Conclusion

The Commission proposes to adopt a policy under which it would not take enforcement action against collectors who comply with the principles set forth in this Statement in collecting on a decedent's debts, as well as comply with all applicable laws and regulations, including Section 5 of the FTC Act and the FDCPA.

#### Invitation To Comment

Interested persons are invited to submit written comments electronically or in paper form. Comments should state "Deceased Debt Collection Policy Statement" in the text and, if applicable, on the envelope.

The FTC will place your comment—including your name and your state—on

individual might believe that the collector is seeking payment from the individual's assets.

<sup>42</sup> For example, asking whether the recipient received any money as the beneficiary of a life insurance policy or retirement account, absent an effective disclaimer, could create a false or misleading impression to a consumer acting reasonably under the circumstances that the consumer may have to pay some or all of the received money to satisfy the decedent's debts, notwithstanding that the money is not part of the net probate estate from which creditors can seek payment. Similarly, asking about jointly-held assets, such as a jointly-titled car or a joint banking account, could also create the false or misleading impression that the consumer may have to use that asset to pay the decedent's debt, notwithstanding that the asset is not part of the net probate estate from which creditors can seek payment.

the public record of this proceeding, and to the extent practicable, will make it available to the public on the FTC Web site at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission endeavors to remove individuals' home contact information from the comments before placing them on its website. Because comments will be made public, they should not include: (1) Any sensitive personal information, such as any individual's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number; (2) any sensitive health information, such as medical records or other individually identifiable health information; or (3) any trade secret or any commercial or financial information which is privileged or confidential, as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>43</sup>

Because postal mail addressed to the FTC is subject to delay due to heightened security screening, if possible, please submit your comments in electronic form or send them by courier or overnight service. To ensure that the Commission considers an electronic comment, you must file it at <https://ftcpublic.commentworks.com/ftc/deceaseddebtcollection> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/search/Regs/home.html#home>, you may also file a comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at <http://www.ftc.gov> to read the Notice and the news release describing it.

A comment filed in paper form should include the reference "Deceased Debt Collection Policy Statement" in the text of the comment and, if applicable, on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex W), 600

Pennsylvania Avenue, NW., Washington, DC 20580.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive comments it receives. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.shtm>.

By direction of the Commission.

**Donald S. Clark,**

Secretary.

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**BILLING CODE 6750-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Calculation of Annual Federal Medical Assistance Percentages for Indian Tribes for Use in the Title IV-E Foster Care, Adoption Assistance, and Kinship Guardianship Assistance Programs

**AGENCY:** Office of the Secretary, DHHS.

**ACTION:** Notice with comment period.

**SUMMARY:** The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110-351) directed HHS to establish assistance payment reimbursement rates for Indian Tribes, tribal organizations and tribal consortia participating in certain child welfare programs authorized under title IV-E of the Social Security Act. These reimbursement rates will be calculated in a manner similar to the Federal Medical Assistance Percentage (FMAP) rates used to reimburse States. This notice describes the Department's proposed methodology for calculating these rates.

**DATES: Effective Date:** The methodology described in this applies to Fiscal Years 2010 and beyond. The FMAP rates included in this notice apply to Fiscal Years 2010 and 2011.

**Comment Date:** To be assured consideration, comments must be received at the address provided below, no later than 5 p.m. on December 7, 2010.

**ADDRESSES:** Comments may be submitted via either regular mail or e-mail. If you submit written comments via regular mail, please send one original and one copy of your comments to the following address only: Department of Health and Human Services, Room 404-E, Attention: Tribal

FMAP Notice, 200 Independence Ave., SW., Washington, DC 20201.

Comments via e-mail should be sent to the following e-mail address: [tribalFMAP@hhs.gov](mailto:tribalFMAP@hhs.gov).

**Submitting Comments:** We welcome comments from the public on the calculation methodology set forth in this notice with comment period to assist us in fully considering issues and developing policies. Please provide a reference to the section on which you choose to comment.

### A. Background

The Fostering Connections to Success and Increasing Adoptions Act of 2008 ("Fostering Connections Act") [Pub. L. 110-351], authorizes Indian Tribes, tribal organizations and tribal consortia to receive funding directly for Foster Care, Adoption Assistance, and Kinship Guardianship Assistance Programs under title IV-E of the Social Security Act. Such direct funding may begin in FY 2010 for Indian Tribes, tribal organizations or tribal consortia with approved title IV-E plans, or eligible Tribes may submit plans to operate such programs at any time in the future. Indian Tribes not operating their own programs may receive title IV-E funds through agreements with the States within which they are located, as authorized under prior law. To date, 86 Indian Tribes have submitted letters of intent to the Administration for Children and Families (ACF) indicating an interest in operating title IV-E programs. Seven Indian Tribes have received title IV-E plan development grants intended to assist Indian Tribes to develop their programs and prepare an approvable title IV-E plan, and one Indian Tribe has submitted a title IV-E plan that is currently under review within ACF. Approximately 90 Indian Tribes currently operate programs under title IV-E agreements with States.

The Federal share of assistance payments for the Title IV-E Foster Care, Adoption Assistance and Kinship Guardianship Assistance Programs is calculated using the Federal Medical Assistance Percentage (FMAP), which is the match rate developed originally for use in the Medicaid Program. FMAP is calculated annually for each State by HHS according to a formula specified in statute (section 1905(b) of the Social Security Act, 42 U.S.C. 1396d(b)). A table displaying each State's FMAP is published annually in the **Federal Register** and is used by the Centers for Medicare & Medicaid Services (CMS) and others, including the Administration for Children and Families (ACF), in calculating the Federal share of State and territorial

<sup>43</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The FTC's General Counsel will grant or deny the request consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

expenditures for programs that use the FMAP for determining Federal financial participation. The FMAP formula involves comparing the State's average per capita income over a three year period with the average per capita income of the U.S. as a whole for the same three year period, and results in FMAP rates that vary between statutory minimum and maximum levels of 50 and 83 percent. The formula produces higher Federal matching rates for jurisdictions with lower average per capita incomes relative to the U.S. average. Indian Tribes previously have not been authorized to administer Federal programs that use FMAs and therefore tribal FMAs have not previously been calculated.

Section 301 of the Fostering Connections Act added Section 479B to the Social Security Act defining Tribal title IV-E Programs. Section 479B(d) provides for the funding of foster care and adoption assistance programs operated by Indian Tribes and requires HHS to establish FMAP rates for Indian Tribes, tribal organizations, or tribal consortia. Each Tribe's annual FMAP shall be based on the per capita income of the service population of the Indian Tribe, tribal organization, or tribal consortium. However, no tribal FMAP shall be lower than the FMAP of any State in which the Indian Tribe, tribal organization, or tribal consortium is located. That is, for Indian Tribes located in multiple States, the Indian Tribe's FMAP (and that to be used with respect to claiming through any title IV-E agreements between the Indian Tribe and a State title IV-E agency) will be at least as high as that of whichever of the States in which it is located that has the highest FMAP. The FMAP described here will be used for Indian Tribes' title IV-E Foster Care, Adoption Assistance, and Kinship Guardianship Assistance programs whether they are administered directly by the Indian Tribe or through an agreement with a title IV-E State agency. The specific statutory language reads as follows:

(d) Determination of Federal Medical Assistance Percentage for Foster Care Maintenance and Adoption Assistance Payments:

(1) *Per Capita Income*—For purposes of determining the Federal medical assistance percentage applicable to an Indian Tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), and (5) of section 474(a), the calculation of the per capita income of the Indian Tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian Tribe, tribal organization, or tribal consortium, except that in no case shall

an Indian Tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the Tribe, organization, or consortium is located.

(2) *Consideration of Other Information*—Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian Tribe, a tribal organization, or a tribal consortium that the Indian Tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian Tribe, tribal organization, or tribal consortium.

The law also requires the application of the tribal FMAP, if higher than the State FMAP, for assistance payments claimed by a State IV-E agency under title IV-E agreements and contracts between States and Indian Tribes. (See Section 474(a)(1) and (2) of the Social Security Act.)

#### **B. Calculation of FMAP for Indian Tribes**

The formula for calculating FMAP for States is specified in title XIX of the Social Security Act (section 1905(b), 42 U.S.C. 1396d(b)). FMAP is calculated according to the following formula:

$$1-0.45 \left( \frac{\text{State Per Capita Income}^2}{\text{U.S. Per Capita Income}^2} \right)$$

The FMAP for a State cannot be less than 50 percent or more than 83 percent. HHS proposes to use the same formula to calculate FMAP for Indian Tribes for title IV-E programs, substituting the Indian Tribe's per capita income data for that of the State. That is:  $1-0.45 \left( \frac{\text{Indian Tribe's Per Capita Income}^2}{\text{U.S. Per Capita Income}^2} \right)$ .

As required by statute, the minimum rate of 50% and the maximum rate of 83% will apply to Indian Tribes. The FMAP rate for each Indian Tribe will be calculated each year in advance of the upcoming fiscal year. Rather than use decimal places, tribal FMAP rates will be rounded up to the next highest whole number (up to a maximum of 83 percent).

#### **C. Data Sources for Calculation of FMAP for Indian Tribes**

When calculating FMAP for States, HHS uses data on per capita income produced by the Bureau of Economic Analysis (BEA) within the Department of Commerce, as required by the Medicaid statute (Section 1101(a)(8)(B) of the Social Security Act, 42 U.S.C. 1301(a)(8)(B)). However, BEA does not have data available regarding per capita income for Indian Tribes. Alternative data sources must therefore be used to

calculate FMAP for Indian Tribes. HHS has researched available sources of income data for Indian Tribes and has concluded that up to date annual data on per capita income are not currently available for most Indian Tribes.

The U.S. Census Bureau produces the only consistent national data regarding per capita income for each Indian Tribe. However, the source of these data is currently in transition. Per capita income that has in the past been collected every 10 years through the decennial census "long form" will in the future be collected by the Census Bureau using the American Community Survey (ACS), an ongoing data collection mechanism. ACS data will be updated more frequently than Decennial Census data, leading to more current estimates in the future. The ACS provides annual (1-year) estimates for geographic areas with populations of 65,000 or more. By pooling responses from multiple years of ACS data, 3-year estimates are currently produced for geographic areas with populations of 20,000 or more. Few Indian Tribes, however, are large enough for either annual or 3-year estimates to be produced. Of the 86 Tribes and tribal organizations that submitted letters of intent to ACF indicating an interest in operating title IV-E programs, 3-year ACS data is available for only eight. Beginning late in calendar year 2010 (during Federal Fiscal Year 2011) 5-year estimates will become available from the Census Bureau for smaller geographic areas, including all Indian Tribes and tribal lands for which Decennial Census data has previously been collected. The 3-year and 5-year estimates will be updated annually beginning in calendar year 2011.

HHS plans to use ACS 5-year estimates as the data source for FMAP calculations applying to the fiscal year following the April in which such data are available. The Census Bureau currently projects that these data will become available by the end of calendar year 2010. Assuming the data are released as expected or no later than April 2011, HHS will use ACS 5-year estimates for 2012 FMAP calculations for Indian Tribes.

Until ACS data become consistently available, the only complete source of per capita income data for Indian Tribes and tribal communities is that of the 2000 Decennial Census, which reports 1999 per capita income data for Indian tribal lands. However, these data are now ten years old and may not represent current tribal income levels. While current levels are preferable for use in calculating the FMAP, such data do not yet exist. In the absence of more

recent data, HHS determined that relying on data from the 2000 Decennial Census is the most viable option until the ACS data becomes available for all Indian Tribes.

We considered whether to use ACS estimates for the several Indian Tribes for which it is available, but decided that it would be more equitable to use the same data source for calculating FMAP for all participating Indian Tribes, tribal organizations and tribal consortia. Therefore, for tribal FMAP rates applying to Fiscal Years 2010 and 2011, HHS will rely on per capita income data from the 2000 Decennial Census, which is the most current data source identified that contains information about per capita incomes for the full range of Indian Tribes.

The law requires that FMAP be calculated on the basis of the Indian Tribe's "service population" for its title IV-E program. Census Bureau data regarding per capita income (including that produced for the Decennial Census and the ACS) can be presented (a) For the total population (all races) living on or near the tribal lands; (b) for the population of individuals identifying themselves only as American Indian or Alaska Native (AI/AN); or (c) for the population who identify themselves as either AI/AN alone or in combination with another race (that is, including multiracial individuals who identify themselves as part AI/AN). Data for populations described in (a) and (b) are standard figures available through the Census Bureau's "American Factfinder" Web site ([www.factfinder.census.gov](http://www.factfinder.census.gov)). Data on the "AI/AN alone or in combination" population is available only through special tabulations which may be purchased from the Census Bureau.

In the absence of information on how to characterize Indian Tribes' intended title IV-E service populations, HHS proposes to use per capita income data for the population of individuals identifying themselves only as American Indian or Alaska Native. These data are readily available without special tabulation and does not typically differ substantially from the "AI/AN alone or in combination" population. It is our understanding that figures for the total population living on or near tribal lands includes many persons who are not enrolled members of the Indian Tribe and therefore may not accurately reflect the incomes of the service population. We encourage comments on the issue of which conceptualization of the population should be used in selecting data for FMAP calculations.

Table 1 shows the FMAP rates resulting from various per capita income

figures in the 2000 Decennial Census. To determine an Indian Tribe's Federal Medical Assistance Percentage (FMAP) for Fiscal Years 2010 and 2011, the Indian Tribe's per capita income as shown in the 2000 Decennial Census may be matched to the figures in Table 1. Figures falling between any two percentage rates will be rounded up to the next whole number. Per capita income figures of \$13,054 or less in the 2000 Decennial Census result in the maximum FMAP of 83%. Most Indian Tribes have relatively low per capita incomes and would therefore qualify for the maximum rate.

Per capita income data for individual Indian Tribes may be found on the Census Bureau Web site at [www.factfinder.census.gov](http://www.factfinder.census.gov). The relevant information is in Census 2000 Summary File 3. Under "custom tables," the geographic type "American Indian Area/Alaska Native Area/Hawaiian Homelands" identifies Indian Tribes. The per capita income figure the Department intends to use for FMAP calculations is found in table P157C.

#### **D. Calculations for Tribal Organizations and Tribal Consortia**

As specified in The Fostering Connections Act, tribal IV-E programs may be operated by federally-recognized Indian Tribes, tribal organizations and consortia of Indian Tribes. In the case of tribal organizations and consortia, data on an individual Indian Tribe will not be sufficient for the calculation of the appropriate FMAP. In the case of a tribal organization or tribal consortium composed of two or more Tribes, HHS will calculate FMAP by weighting the per capita income data according to the proportional representation of each Tribe's service population relative to the total service population of the organization or consortium. For instance, if Tribe A with a population of 6,000 members and Tribe B with a population of 4,000 members together operate a title IV-E program, the applicable FMAP would be calculated by weighting the per capita income figures for the two, such that Tribe A's per capita income is multiplied by the ratio of its population (6,000) to the combined population of the consortia (10,000), that is  $6,000/10,000$  or 0.6, and Tribe B's per capita income is multiplied by  $4,000/10,000$  (or 0.4) and the two weighted per capita income figures would be added to produce the per capita income figure for the FMAP formula.

#### **E. Procedures for Producing Annual Updates to Federal Medical Assistance Percentages for Indian Tribes**

For fiscal years beyond 2011, the Department plans to use American Community Survey 5-year data for the per capita income estimates of Indian Tribes as well as for the U.S. per capita income information necessary for the FMAP formula. At that point, FMAP rates will be updated annually based on the most recent ACS 5-year estimates available. The formula for the calculation will remain as described above. In the third quarter of each fiscal year ACF regional office staff will communicate with each Indian Tribe, tribal organization, or tribal consortium their tribal FMAP rate for the upcoming fiscal year. Because most Indian Tribes will be receiving the maximum FMAP rate and per capita incomes do not tend to change rapidly, it is likely that many programs will see little, if any, matching rate shifts from year to year. A link to a table similar to the one at the end of this notice will be posted annually on ACF's Web site (<http://www.acf.hhs.gov>) displaying the per capita income thresholds for each FMAP rate for the fiscal year.

#### **F. Consideration of Supplemental Data**

The Fostering Connections Act specifies that before the tribal FMAP calculations for each fiscal year become effective the Secretary shall consider relevant data (e.g., ACS 3-year data) the Indian Tribe, tribal organization or tribal consortium may submit relating to the per capita income calculation.

In the absence of supplemental data, HHS will use the data and procedures described above to calculate the applicable FMAP for the grantee. Indian Tribes, tribal organizations and tribal consortia may submit additional relevant data for the Department's consideration in making the FMAP calculation and such data will be evaluated by the Division of Mandatory Grants in the Office of Grants Management at ACF. Such data may be submitted to the attention of Joseph Lonergan, Director, Division of Mandatory Grant, ACF Office of Grants Management, at 202-401-6603 (phone); 202-401-5644 (fax); or e-mail: [tribalfmap@hhs.gov](mailto:tribalfmap@hhs.gov). Supplemental data may relate to matters such as the per capita income of the Indian Tribe, tribal organization or consortium, the numbers and/or geographic locations of its service population, and/or defining the grantee's service population to include individuals other than those who identified themselves as American Indian only to be considered for the

purposes of calculating the applicable per capita income.

Data to be considered for a given fiscal year's calculation should be submitted no less than 30 days before the beginning of the next fiscal year (September 1) in order to provide sufficient time for the Department to evaluate the suitability of the additional data. Tribal leadership will be consulted prior to a final decision by the Department regarding the suitability of any supplemental data submitted. The Department will also work closely with tribal leaders before establishing a final FMAP for the upcoming fiscal year.

**G. Application of Temporary Increases to Tribal Federal Medical Assistance Percentages**

From time to time Congress provides for adjustments to FMAP rates in response to economic conditions or other circumstances. At present and continuing through the first quarter of Fiscal Year 2011 (that is, December 30, 2010), States are receiving a temporary increase in their FMAP rates, including a temporary increase of 6.2 percentage points that is applicable to all title IV-E programs in which assistance payments are claimed. The statutory authorization for the temporary increase

is found in section 5001 of the American Recovery and Reinvestment Act (ARRA), Public Law 111-5. In addition, Public Law 111-226, the Education, Jobs and Medicaid Assistance Act, provides for rates of 3.2 percentage points above regular FMAP rates for the second quarter of Fiscal Year 2011 (January 1, 2011 through March 31, 2011) and 1.2 percentage points above regular FMAP rates for the third quarter of Fiscal Year 2011 (April 1, 2011 through June 30, 2011). Increased rates authorized by Public Law 111-226 apply to States only if the State's Chief Executive Officer certifies by September 24, 2010 that the State will request and use the additional funds.

To the extent permitted by statute, it is HHS's intention to treat Indian Tribes, tribal organizations, and tribal consortia in the same manner as States. We have determined that the temporary FMAP increases described above will apply to tribal FMAP as they do to States. In the table at the end of this announcement, both standard and temporarily adjusted FMAP applicable through December 30, 2010 are shown. The temporary increases applicable to the second and third quarters of Fiscal Year 2011 are

not shown on the table but may be similarly calculated. The applicability of any future FMAP adjustments to Indian Tribes, tribal organizations, and tribal consortia will depend on the specific statutory language enacting such adjustments.

We encourage interested parties to provide comments on the methodology and data sources for calculating the Tribal FMAP rates for title IV-E programs. Specifically, we invite comment on the definition of service population adopted in this notice and alternate data sources for per capita income of Indian tribes, tribal organizations, and tribal consortia.

**FOR FURTHER INFORMATION CONTACT:** Laura Radel, Office of the Assistant Secretary for Planning and Evaluation, Room 404-E—Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; 202-690-5938; [Laura.Radel@hhs.gov](mailto:Laura.Radel@hhs.gov).

(Catalog of Federal Domestic Assistance Program Nos. 93.658: Foster Care Title IV-E; 93.659: Adoption Assistance; 93.090: Guardianship Assistance)

Dated: July 1, 2010.

**Kathleen Sebelius,**  
*Secretary.*

1999 Tribal per capita income range from 2000 decennial census data		Resulting FMAP (percent)	FMAP including 6.2 percentage point increase authorized by ARRA through the first quarter of FY 2011 (percent)
Income greater than or equal to	Income less than or equal to		

**Per Capita Income Levels Matched to FY 2010/FY 2011 Federal Medical Assistance Percentage**

To determine an Indian Tribe's Federal Medical Assistance Percentage (FMAP) for Fiscal Years 2010 and 2011, find the Indian Tribe's per capita income from the 2000 Decennial Census (American Indian Alone population) in the list of FMAPs below.

1999 Per Capita Income from the 2000 Decennial Census Data: U.S. Estimate = \$21,587  
FMAP Formula:  $1 - 0.45 \times (\text{Indian Tribe Per Capita Income}^2 / \text{U.S. Per Capita Income}^2)$

\$0	\$13,652	83	89.2
13,653	14,027	82	88.2
14,028	14,391	81	87.2
14,392	14,746	80	86.2
14,747	15,093	79	85.2
15,094	15,433	78	84.2
15,434	15,765	77	83.2
15,766	16,090	76	82.2
16,091	16,408	75	81.2
16,409	16,721	74	80.2
16,722	17,028	73	79.2
17,029	17,329	72	78.2
17,330	17,625	71	77.2
17,626	17,917	70	76.2
17,918	18,203	69	75.2
18,204	18,486	68	74.2
18,487	18,764	67	73.2
18,765	19,038	66	72.2
19,039	19,308	65	71.2
19,309	19,574	64	70.2
19,575	19,837	63	69.2
19,838	20,096	62	68.2
20,097	20,352	61	67.2
20,353	20,605	60	66.2
20,606	20,855	59	65.2

1999 Tribal per capita income range from 2000 decennial census data		Resulting FMAP (percent)	FMAP including 6.2 percentage point increase authorized by ARRA through the first quarter of FY 2011 (percent)
Income greater than or equal to	Income less than or equal to		
20,856	21,102	58	64.2
21,103	21,346	57	63.2
21,347	21,587	56	62.2
21,588	21,825	55	61.2
21,826	22,061	54	60.2
22,062	22,295	53	59.2
22,296	22,526	52	58.2
22,527	22,754	51	57.2
22,755	.....	50	56.2

[FR Doc. 2010-25344 Filed 10-7-10; 8:45 am]

BILLING CODE 4150-05-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the National Coordinator for Health Information Technology; HIT Standards Committee Schedule for the Assessment of HIT Policy Committee Recommendations

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice.

**SUMMARY:** Section 3003(b)(3) of the American Recovery and Reinvestment Act of 2009 mandates that the HIT Standards Committee develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee and publish it in the *Federal Register*. This notice fulfills the requirements of Section 3003(b)(3) and updates the schedule posted in the *Federal Register* on May 26, 2009. In anticipation of receiving recommendations originally developed by the HIT Policy Committee, the HIT Standards Committee has created four (4) workgroups or subcommittees to analyze the areas of clinical quality, clinical operations, implementation, and privacy and security.

### HIT Standards Committee Schedule for the Assessment of HIT Policy Committee Recommendations

The National Coordinator will establish priority areas based in part on recommendations received from the HIT Policy Committee regarding health information technology standards, implementation specifications, and/or certification criteria. Once the HIT Standards Committee is informed of those priority areas, it will:

(A) Direct the appropriate workgroup or subcommittee to develop a report for the HIT Standards Committee, to the extent possible, within 90 days, which

will include among other items the following:

(1) An assessment of what standards, implementation specifications, and certification criteria are currently available to meet the priority area;

(2) an assessment of where gaps exist (*i.e.*, no standard is available or harmonization is required because more than one standard exists) and identify potential organizations that have the capability to address those gaps; and

(3) a timeline, which may also account for NIST testing where appropriate, and include dates when the HIT Standards Committee is expected to issue recommendation(s) to the National Coordinator.

(B) Upon receipt of a subcommittee report, the HIT Standards Committee will:

(1) Accept the timeline provided by the subcommittee, and if necessary, revise it; and

(2) assign subcommittee(s) to conduct research and solicit testimony, where appropriate, and issue recommendations to the full committee, in a timely manner.

(C) Advise the National Coordinator, consistent with the accepted timeline in (B)(1) and after NIST testing, where appropriate, on standards, implementation specifications, and/or certification criteria, for the National Coordinator's review and determination whether or not to endorse the recommendations, and possible adoption of the proposed recommendations by the Secretary of Health and Human Services.

For a listing of upcoming HIT Standards Committee meetings, please visit the ONC Web site at <http://healthit.hhs.gov>.

Notice of this schedule is given under the American Recovery and

Reinvestment Act of 2009 (Pub. L. 111-5), section 3003.

**Erin Poetter,**

*Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 2010-25345 Filed 10-7-10; 8:45 am]

BILLING CODE 4150-45-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Public Meeting To Solicit Input for a Strategic Plan for Federal Youth Policy

**AGENCY:** Office of the Assistant Secretary for Planning and Evaluation, DHHS.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Department of Health and Human Services, in its role as the Chair of the Interagency Working Group on Youth Programs, is announcing a meeting to solicit input from the public that will inform the development of a strategic plan for federal youth policy.

**DATES:** October 19, 2010, from 9 a.m.–1 p.m.

**ADDRESSES:** The meeting will take place at the Colorado Plaza Towers at 633 17th Street, Denver, CO 80202.

**FOR FURTHER INFORMATION CONTACT:** Visit the Web site for the Interagency Working Group on Youth Programs at <http://www.FindYouthInfo.gov> for information on how to register, or contact the Interagency Working Group on Youth Programs help desk, by telephone at 1-877-231-7843 [**Note:** this is a toll-free telephone number], or by e-mail at [FindYouthInfo@air.org](mailto:FindYouthInfo@air.org).

### SUPPLEMENTARY INFORMATION:

#### I. Background

On March 11, 2009, the Congress passed the Omnibus Appropriations Act, 2009 (Pub. L. 111-8). The House Appropriations Committee Print,

Division F—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations directed that the Interagency Working Group on Youth Programs solicit input from young people, State children's cabinet directors, and non-profit organizations on youth programs and policies; develop an overarching strategic plan for Federal youth policy; and prepare recommendations to improve the coordination, effectiveness, and efficiency of programs affecting youth.

The Interagency Working Group on Youth Programs is comprised of staff from twelve Federal agencies that support programs and services that focus on youth: the U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Defense; U.S. Department of Education; U.S. Department of Health and Human Services (Chair); U.S. Department of Housing and Urban Development; U.S. Department of Justice (Vice-Chair); U.S. Department of Labor; U.S. Department of the Interior; U.S. Department of Transportation; Corporation for National and Community Service; and Office of National Drug Control Policy.

The Working Group seeks to promote achievement of positive results for at-risk youth through the following activities:

- Promoting enhanced collaboration at the Federal, state, and local levels, including with faith-based and other community organizations, as well as among families, schools and communities, in order to leverage existing resources and improve outcomes;
- Disseminating information about critical resources, including evidence-based programs, to assist interested citizens and decisionmakers, particularly at the community level, to plan, implement, and participate in effective strategies for at-risk youth;
- Developing an overarching strategic plan for federal youth policy, as well as recommendations for improving the coordination, effectiveness and efficiency of youth programs, using input from community stakeholders, including youth; and
- Producing a Federal Web site, [FindYouthInfo.gov](http://FindYouthInfo.gov), to promote effective community-based efforts to reduce the factors that put youth at risk and to provide high-quality services to at-risk youth.

## II. Registration, Security, Building, and Parking Guidelines

For security purposes, members of the public who wish to attend the meeting must pre-register on-line at <http://www.findyouthinfo.gov> no later than October 12, 2010. Should problems arise with Web registration, call the help desk at 1-877-231-7843 or send a request to

register for the meeting to [FindYouthInfo@air.org](mailto:FindYouthInfo@air.org). To register, complete the online registration form, which will ask for your name, title, organization or other affiliation, full address and phone, fax, and e-mail information or email this information to [FindYouthInfo@air.org](mailto:FindYouthInfo@air.org). Additional identification documents may be required. The meetings are held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. Space is limited. In order to gain access to the building and grounds, participants must bring government-issued photo identification as well as their pre-registration confirmation.

**Authority:** Division F, Pub. L. 111-8; E.O. 13459, 73 FR 8003, February 12, 2008.

Dated: September 30, 2010.

**Sherry Glied,**

*Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2010-25339 Filed 10-7-10; 8:45 am]

**BILLING CODE 4154-05-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Public Meeting To Solicit Input for a Strategic Plan for Federal Youth Policy

**AGENCY:** Office of the Assistant Secretary for Planning and Evaluation, DHHS.

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Department of Health and Human Services, in its role as the Chair of the Interagency Working Group on Youth Programs, is announcing a meeting to solicit input from the public that will inform the development of a strategic plan for federal youth policy.

**DATES:** October 19, 2010, from 9 a.m.–1 p.m.

**ADDRESSES:** The meeting will take place at the Henry M. Jackson Building at 915 Second Avenue, Seattle, WA 98174–1009.

**FOR FURTHER INFORMATION:** Visit the Web site for the Interagency Working Group on Youth Programs at <http://www.FindYouthInfo.gov> for information on how to register, or contact the Interagency Working Group on Youth Programs help desk, by telephone at 1-877-231-7843 [**Note:** this is a toll-free telephone number], or by e-mail at [FindYouthInfo@air.org](mailto:FindYouthInfo@air.org).

**SUPPLEMENTARY INFORMATION:**

## I. Background

On March 11, 2009, the Congress passed the Omnibus Appropriations Act, 2009 (Pub. L. 111-8). The House Appropriations Committee Print, Division F—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations included language directing the Interagency Working Group on Youth Programs to solicit input from young people, State children's cabinet directors, and non-profit organizations on youth programs and policies; develop an overarching strategic plan for Federal youth policy; and prepare recommendations to improve the coordination, effectiveness, and efficiency of programs affecting youth.

The Interagency Working Group on Youth Programs is comprised of staff from twelve Federal agencies that support programs and services that focus on youth: the U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Defense; U.S. Department of Education; U.S. Department of Health and Human Services (Chair); U.S. Department of Housing and Urban Development; U.S. Department of Justice (Vice-Chair); U.S. Department of Labor; U.S. Department of the Interior; U.S. Department of Transportation; Corporation for National and Community Service; and Office of National Drug Control Policy.

The Working Group seeks to promote achievement of positive results for at-risk youth through the following activities:

- Promoting enhanced collaboration at the Federal, state, and local levels, including with faith-based and other community organizations, as well as among families, schools and communities, in order to leverage existing resources and improve outcomes;
- Disseminating information about critical resources, including evidence-based programs, to assist interested citizens and decisionmakers, particularly at the community level, to plan, implement, and participate in effective strategies for at-risk youth;
- Developing an overarching strategic plan for federal youth policy, as well as recommendations for improving the coordination, effectiveness and efficiency of youth programs, using input from community stakeholders, including youth; and
- Producing a Federal Web site, [FindYouthInfo.gov](http://FindYouthInfo.gov), to promote effective community-based efforts to reduce the factors that put youth at risk and to provide high-quality services to at-risk youth.

## II. Registration, Security, Building, and Parking Guidelines

For security purposes, members of the public who wish to attend the meeting must pre-register on-line at <http://www.findyouthinfo.gov> no later than October 12, 2010. Should problems arise with Web registration, call the help desk at 1-877-231-7843 or send a request to register for the meeting to [FindYouthInfo@air.org](mailto:FindYouthInfo@air.org). To register, complete the online registration form, which will ask for your name, title, organization or other affiliation, full address and phone, fax, and e-mail information or e-mail this information to [FindYouthInfo@air.org](mailto:FindYouthInfo@air.org). Additional identification documents may be required. The meetings are held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. Space is limited. In order to gain access to the building and grounds, participants must bring government-issued photo identification as well as their pre-registration confirmation.

**Authority:** Division F, Pub. L. 111-8; E.O. 13459, 73 FR 8003, February 12, 2008.

Dated: September 30, 2010.

**Sherry Glied,**

*Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2010-25342 Filed 10-7-10; 8:45 am]

**BILLING CODE 4154-05-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-244 and CMS-R-249]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506I(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function;

(2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare and Medicaid Programs: Programs of All-Inclusive Care for the Elderly (PACE); *Use:* PACE organizations must demonstrate their ability to provide quality community-based care for the frail elderly who meet their State's nursing home eligibility standards using capitated payments from Medicare and the state. The model of care includes as core services the provision of adult day health care and multidisciplinary team case management, through which access to and allocation of all health services is controlled. Physician, therapeutic, ancillary, and social support services are provided in the participant's residence or on-site at the adult day health center. PACE programs must provide all Medicare and Medicaid covered services including hospital, nursing home, home health, and other specialized services. Financing of this model is accomplished through prospective capitation of both Medicare and Medicaid payments. The information collection requirements are necessary to ensure that only appropriate organizations are selected to become PACE organizations and that CMS has the information necessary to monitor the care provided to the frail, vulnerable population served. *Form Number:* CMS-R-244 (OMB#: 0938-0790); *Frequency:* Once and Occasionally; *Affected Public:* State, Local, or Tribal Governments and Not-for-profit institutions; *Number of Respondents:* 99; *Total Annual Responses:* 99; *Total Annual Hours:* 81,911.5. (For policy questions regarding this collection contact Daniella Stanley at 410-786-3723. For all other issues call 410-786-1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Hospice Cost and Data Report and supporting regulations 42 CFR 413.20 and 42 CFR 413.24; *Use:* In accordance with sections 1815(a), 1833(e), and 1861(v)(A)(ii) of the Social Security Act, providers of service in the Medicare program are required to submit annual information to achieve reimbursement for health care services rendered to Medicare beneficiaries. In addition, 42 CFR

413.20(b) sets forth that cost reports will be required from providers on an annual basis. Such cost reports are required to be filed with the provider's fiscal intermediary (FI) or Medicare Administrative Contractor (MAC) no later than the last day of the fifth month following the close of the period covered by the report. *Form Number:* CMS-R-249 (OMB#: 0938-0758); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 2,303; *Total Annual Responses:* 2,303; *Total Annual Hours:* 405,328. (For policy questions regarding this collection contact Gail Duncan at 410-786-7278. For all other issues call 410-786-1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *November 8, 2010*.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-6974, E-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

Dated: September 30, 2010.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2010-25052 Filed 10-7-10; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-18F5, CMS-R-262, CMS-10142 and CMS-R-26]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the

following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**1. Type of Information Collection Request:** Extension of a currently approved collection; **Title of Information Collection:** Application for Hospital Insurance; **Use:** Individuals who are not entitled to or eligible for railroad retirement board (RRB) or Social Security Administration benefits must file an application for Part A. This group includes individuals who defer filing an application for monthly benefits, individuals who are transitionally insured, government employees who pay only the Hospital Insurance portion of the Federal Insurance Contributions Act tax and individuals eligible for Premium Part A for the Working Disabled. The Application for Hospital Insurance CMS-18F5 was designed to capture all the information needed to make a determination of an individual's entitlement to Part A and Supplementary Medical Insurance (Part B). **Form Number:** CMS-18F5 (OMB#: 0938-0251); **Frequency:** Once; **Affected Public:** Individuals or households; **Number of Respondents:** 50,000; **Total Annual Responses:** 50,000; **Total Annual Hours:** 12,495. (For policy questions regarding this collection contact Naomi Rappaport at 410-786-2175. For all other issues call 410-786-1326.)

**2. Type of Information Collection Request:** Revision of a currently approved collection; **Title of Information Collection:** CY 2012 Plan Benefit Package (PBP) Software and Formulary Submission; **Use:** Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit packages for all Medicare beneficiaries residing in their service area. The plan benefit package submission consists of the Plan Benefit Package (PBP) software, formulary file, and supporting documentation, as necessary. MA and PDP organizations

use the PBP software to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. They also generate a formulary to describe their list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits.

Additionally, CMS uses the PBP and formulary data to review and approve the plan benefit packages proposed by each MA and PDP organization.

CMS requires that MA and PDP organizations submit a completed PBP and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to CMS for review and approval. Refer to the supporting document "Appendix B" for a list of changes. **Form Number:** CMS-R-262 (OMB#: 0938-0763); **Frequency:** Yearly; **Affected Public:** Business or other for-profits and not-for-profit institutions; **Number of Respondents:** 655; **Total Annual Responses:** 6,878; **Total Annual Hours:** 18,020. (For policy questions regarding this collection contact Kristy Holtje at 410-786-2209. For all other issues call 410-786-1326.)

**3. Type of Information Collection Request:** Revision of a currently approved collection; **Title of Information Collection:** CY 2012 Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); **Use:** Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), and implementing regulations at 42 CFR, Medicare Advantage organizations (MAO) and Prescription Drug Plans are required to submit an actuarial pricing "bid" for each plan offered to Medicare beneficiaries for approval by CMS.

MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The information provided in the BPT is the basis for the plan's enrollee premiums and CMS payments for each contract year. The tool collects data such as medical expense development (from claims data and/or manual rating), administrative expenses, profit levels, and projected plan enrollment information. By statute, completed BPTs are due to CMS by the first Monday of June each year. CMS reviews and analyzes the information provided on the Bid Pricing Tool. Ultimately, CMS decides whether to approve the plan pricing (*i.e.*, payment and premium) proposed by each organization. **Form Number:** CMS-10142 (OMB#: 0938-0944); **Frequency:** Yearly; **Affected Public:** Business or

other for-profits and not-for-profit institutions; **Number of Respondents:** 550; **Total Annual Responses:** 4,950; **Total Annual Hours:** 34,650. (For policy questions regarding this collection contact Diane Spitalnic at 410-786-5745. For all other issues call 410-786-1326.)

**4. Type of Information Collection Request:** Extension of a currently approved collection; **Title of Information Collection:** Clinical Laboratory Improvement Amendment (CLIA) of 1988 and Supporting Regulations in 42 CFR 493.1-2001; **Use:** The information collection requirements in 42 CFR 493 outline the requirements necessary to determine an entity's compliance with CLIA. CLIA requires laboratories that perform testing on human beings to meet performance requirements (quality standards) in order to be certified by the Department of Health and Human Services (DHHS). DHHS conducts inspections to determine a laboratory's compliance with CLIA requirements. CLIA implements the certificate, laboratory standards and inspection requirements. **Form Number:** CMS-R-26 (OMB#: 0938-0612); **Frequency:** Occasionally; **Affected Public:** Federal Government; State, Local, or Tribal Governments; Private Sector; Business or other for-profits and Not-for-profit institutions; **Number of Respondents:** 168,688; **Total Annual Responses:** 756,240; **Total Annual Hours:** 11,363,280. (For policy questions regarding this collection contact Raelene Perfetto at 410-786-6876. For all other issues call 410-786-1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *December 7, 2010*:

**1. Electronically.** You may submit your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: September 30, 2010.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2010-25053 Filed 10-7-10; 8:45 am]

**BILLING CODE 4120-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

*Comments are invited on:* (a) Whether the proposed collections of information

are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

**Proposed Project: 2011-2014 National Survey on Drug Use and Health: Methodological Field Tests (OMB No. 0930-0290-Revision)**

The National Survey on Drug Use and Health (NSDUH) is a survey of the civilian, non-institutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

In March 2008, SAMHSA received a three-year renewal of its generic clearance for methodological field tests. This will be a request for another renewal of the generic approval to continue methodological tests over the next three years, with conditions similar to the previous clearance. These methodological tests will continue to be designed to examine the feasibility, quality, and efficiency of new

procedures or revisions to existing survey protocol. Specifically, the tests will measure the reliability and validity of certain questionnaire sections and items through multiple measurements on a set of respondents; assess new methods for gaining cooperation and participation of respondents with the goal of increasing response and decreasing potential bias in the survey estimates; and assess the impact of new sampling techniques and technologies on respondent behavior and reporting. Research will involve focus groups, cognitive laboratory testing, field tests, and customer surveys.

The next wave of methodological tests will continue to examine ways to increase data quality, lower operating costs, and gain a better understanding of sources and effects of nonsampling error on the NSDUH estimates. Particular attention will be given to minimizing the impact of design changes so that survey data continue to remain comparable over time. If these tests provide successful results, current procedures or data collection instruments may be revised.

The number of respondents to be included in each field test will vary, depending on the nature of the subject being tested and the target population. However, the total estimated response burden is 8,251 hours. The exact number of subjects and burden hours for each test are unknown at this time, but will be clearly outlined in each individual submission. The table below, however, describes the anticipated burden for each of the major testing activities for which generic approval is being tested.

**ESTIMATED BURDEN FOR NSDUH METHODOLOGICAL FIELD TESTS**

Activity	Number of respondents	Responses per respondent	Total number of responses	Average burden per response (hrs.)	Total burden (hrs.)
a. Focus Groups .....	270	1	270	2.0	540
b. Cognitive laboratory testing .....	200	1	200	1.0	200
c. Field Tests .....	6,600	1	6,600	1.0	6,600
d. Customer Satisfaction Surveys .....	300	1	300	0.25	75
Household screening for c .....	8,910	1	8,910	0.083	740
Screening Verification for c .....	445	1	445	0.067	30
Interview Verification for c .....	990	1	990	0.067	66
<b>Total .....</b>	<b>17,715</b>	<b>.....</b>	<b>17,715</b>	<b>.....</b>	<b>8,251</b>
<b>Annual Average (Total divided by 3 years) .....</b>	<b>5,905</b>	<b>.....</b>	<b>5,905</b>	<b>.....</b>	<b>2,750</b>

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, One Choke Cherry Road, Rockville, MD 20857 and e-mail a copy to [summer.king@samhsa.hhs.gov](mailto:summer.king@samhsa.hhs.gov). Written comments should be received within 60 days of this notice.

Dated: September 30, 2010.

**Elaine Parry,**

Director, Office of Management, Technology and Operations.

[FR Doc. 2010–25439 Filed 10–7–10; 8:45 am]

**BILLING CODE 4162–20–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Comment Request**

*Title:* Financial Institution Data Match.

*OMB No.:* 0970–0196.

*Description:* Section 466(a)(17) of the Social Security Act (the Act) requires States to establish procedures under which the State Child Support

Enforcement IV–D agencies shall enter into agreements with financial institutions doing business in States for the purpose of securing information leading to the enforcement of child support orders. Under 452(l) and 466(a)(17)(A)(i) of the Act, the Secretary may aid State agencies conducting data matches with financial institutions doing business in multiple States by centrally matching through the Federal Parent Locator Service.

Respondents: Financial institutions doing business in two or more States.

**ANNUAL BURDEN ESTIMATES**

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Financial Data Match Result File .....	259	4	0.33	341.88
Election Form .....	122	1	0.50	61
Estimated Total Annual Burden Hours .....				402.88

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L’Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address:* [infocollection@acf.hhs.gov](mailto:infocollection@acf.hhs.gov).

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**.

Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–7285, *E-mail:*

[OIRA\\_SUBMISSION@OMB.EOP.GOV](mailto:OIRA_SUBMISSION@OMB.EOP.GOV)

*Attn:* Desk Officer for the Administration for Children and Families.

Dated: October 5, 2010.

**Robert Sargis,**

Reports Clearance Officer.

[FR Doc. 2010–25414 Filed 10–7–10; 8:45 am]

**BILLING CODE 4184–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA–2010–N–0493]

**Agency Information Collection Activities; Proposed Collection; Comment Request; Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the additional criteria and procedures for classifying over-the-counter (OTC) drugs as generally recognized as safe and effective and not misbranded.

**DATES:** Submit either electronic or written comments on the collection of information by December 7, 2010.

**ADDRESSES:** Submit electronic comments on the collection of information to <http://www.regulations.gov>. Submit written

comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:**

Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, [Elizabeth.Berbakos@fda.hhs.gov](mailto:Elizabeth.Berbakos@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information

is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Additional Criteria and Procedures for Classifying OTC Drugs as Generally Recognized as Safe and Effective and Not Misbranded—New**

In the **Federal Register** of January 23, 2002 (67 FR 3060), we established regulations in § 330.14 (21 CFR 330.14) providing additional criteria and procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded (2002 TEA final rule). The regulations in § 330.14 state that OTC drug products introduced into the U.S. market after the OTC drug review began and OTC drug products without any marketing experience in the United States can be evaluated under the monograph process if the conditions (e.g., active ingredients) meet certain

“time and extent” criteria outlined in § 330.14(b). The regulations allow a “time and extent” application (TEA) to be submitted to us by any party for our consideration to include new conditions in the OTC drug monograph system. TEAs must provide evidence described in § 330.14(c) demonstrating that the condition is eligible for inclusion in the monograph system. (Section 330.14(d) specifies the number of copies and address for submission of a TEA.) If a condition is found eligible, any interested parties can submit safety and effectiveness information as explained in § 330.14(f). Safety and effectiveness data include not only the data and information listed in 21 CFR 330.10(a)(2) (§ 330.14(f)(1)) but also a listing of all serious adverse drug experiences that may have occurred (§ 330.14(f)(2)) as well as an official or proposed compendial monograph (§ 330.14(i)).

In the 2002 TEA final rule, we estimated that 50 TEAs would be submitted to us annually by approximately 25 respondents (67 FR 3060 at 3073). We also estimated that the time required for preparing and submitting each TEA would be approximately 480 hours. We continue to believe that a respondent will spend approximately 480 hours preparing a TEA, but we no longer expect to receive 50 TEAs annually. Since 2003, we have

received a total of 16 TEAs from 12 respondents. This is equivalent to 2.3 TEAs annually from 1.7 respondents. We now estimate that we will receive 2 TEAs annually from 2 respondents (see table 1 of this document).

We also estimated in the 2002 TEA final rule that we would receive three safety and effectiveness submissions for each condition found eligible for further consideration under a TEA (67 FR 3060 at 3072). We estimated that we would receive 90 submissions of safety and effectiveness data annually. And, we estimated that it would take approximately 800 hours to prepare and submit each safety and effectiveness submission. We believe that each submission, including serious adverse drug experiences and a compendial monograph, will take approximately 800 hours to complete (see table 1 of this document). However, we do not believe the estimated number of submissions is accurate. During the 8 years that have elapsed since publication of the 2002 TEA final rule, we have found 14 ingredients eligible under the TEA process and have received 16 submissions of safety and effectiveness data from 9 respondents. Therefore, we now estimate that we will receive two submissions of safety and effectiveness data annually from two respondents.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
330.14(c) and (d) <sup>1</sup> .....	2	1	2	480	960
330.14(f) and (i) <sup>2</sup> .....	2	1	2	800	1,600
Total .....					2,560

<sup>1</sup> TEA.

<sup>2</sup> Safety and effectiveness submission, including adverse events and compendial monograph.

Dated: October 3, 2010.  
**Leslie Kux,**  
*Acting Assistant Commissioner for Policy.*  
 [FR Doc. 2010-25375 Filed 10-7-10; 8:45 am]  
**BILLING CODE P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

[OMB No. 0970-0171]

**Proposed Information Collection Activity; Comment Request**

**Proposed Projects**

*Title:* Required Data Elements for Voluntary Establishment of Paternity Affidavits.

*Description:* Section 466(a)(5)(C)(iv) of the Social Security Act (the Act) requires States to develop and use an affidavit for the voluntary

acknowledgement of paternity. The affidavit for the voluntary acknowledgement of paternity must include the minimum requirements specified by the Secretary under section 452(a)(7) of the Act. The affidavits will be used by hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program, that collect information from parents of children that are born out of wedlock.

*Respondents:* Parents of children that are born out of wedlock provide the required information to State and Tribal IV-D agencies, hospitals, birth record agencies and other entities participating

in the voluntary paternity establishment program.

## ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
None .....	1,167,097	1	.166	193,738

*Estimated Total Annual Burden Hours:* 193,738.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. *E-mail address:* [infocollection@acf.hhs.gov](mailto:infocollection@acf.hhs.gov). All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 29, 2010.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2010-25023 Filed 10-7-10; 8:45 am]

**BILLING CODE 4184-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Plan To Develop a Genetic Testing Registry at the National Institutes of Health; Public Meeting; Request for Comments

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice of public meeting; request for comments.

**SUMMARY:** The National Institutes of Health is announcing a public meeting to gather stakeholder perspectives on its plan to develop the Genetic Testing Registry. The meeting will provide a forum for interested stakeholders to provide comments on specific aspects of the plan.

**Date and Time:** The public meeting will be held November 2, 2010, from 9 a.m. to 12 p.m.

**Location:** The public meeting will be held at the Walter E. Johnson Convention Center, Room 147, 801 Mount Vernon Place, NW., Washington, DC 20001. For directions, please contact the Convention Center at 202-249-3000 or refer to the following Web site: <http://www.dccconvention.com/>.

**Special accommodations:** Anyone planning to attend the meeting who needs special assistance, such as sign language interpretation or other reasonable accommodations, is asked to contact Cathy Fomous (see Contacts section) by October 26, 2010.

**Registration:** If you wish to attend the public meeting, please register by October 27, 2010. Registration is free and on a first-come, first-served basis. Pre-registration can be completed online at [http://oba.od.nih.gov/gtr/gtr\\_meetings.html](http://oba.od.nih.gov/gtr/gtr_meetings.html). Persons without Internet access may call Ms. Nicole Numbers at 301-650-8660. Onsite registration will be based on space availability.

**Requests for Oral Presentations:** Interested persons who would like to make oral comments during the meeting will be given 5 minutes to do so if they submit their request by October 27, 2010, to Cathy Fomous. Send requests

by e-mail to [cfomous@od.nih.gov](mailto:cfomous@od.nih.gov); by fax to 301-496-9839; or via postal service to Cathy Fomous, Ph.D., Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Dr., Suite 750, Bethesda, MD 20892. The request should include the commenter's name, title, affiliation, address, e-mail address, and telephone number. All requests should indicate which questions outlined below in the section on Public Meeting Focus will be addressed. Depending on the number of individuals and organizations that submit requests to make oral remarks, the allotted time may be expanded or shortened to provide all interested parties an opportunity to present.

**Written Comments:** Interested persons who cannot attend the meeting may submit written comments on the questions outlined below. Comments should be submitted to Cathy Fomous via e-mail, fax, or postal service using the above contact information. The comment period for written comments closes on November 12, 2010.

**Contacts:** For questions about the meeting logistics, please contact Ms. Nicole Numbers at [numbers@palladianpartners.com](mailto:numbers@palladianpartners.com) or 301-650-8660. For special accommodations or questions about the meeting agenda and public comments, please contact Cathy Fomous, Ph.D., NIH Office of Biotechnology Activities at [cfomous@od.nih.gov](mailto:cfomous@od.nih.gov) or 301-496-9838.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Advances in the knowledge of genetic factors involved in health and disease have been accompanied by a rapid rise in the availability of genetic tests, including those tests that diagnose or assess the risk for disease, provide prognostic information, and guide the selection of drug therapies and dosing. Although more than 2,000 genetic tests are available, there is no public resource that provides centralized information about the availability and scientific basis of these tests.

On March 18, 2010, the National Institutes of Health (NIH) announced its intent to develop the Genetic Testing

Registry (GTR) to provide access to information that enables informed decision making by patients, caregivers, health care professionals, clinical laboratory professionals, payers, and policy makers. The goals of the GTR are to promote transparency by encouraging test providers to share information about the purpose and validity of their tests; provide a resource for the public—including health care providers, patients, and researchers—to locate laboratories that offer particular tests; and facilitate genomic data sharing for research and new scientific discoveries.

The GTR project is overseen by the NIH Office of the Director. The National Center for Biotechnology Information (NCBI), part of the National Library of Medicine at NIH, is responsible for developing the registry, which is expected to be available in 2011.

As part of the development process, the NIH issued a Request for Information (RFI) on July 12, 2010, to seek input from the public on its plan for this project. The RFI comment period ended August 2, 2010. NIH received 68 comments in response to the RFI, and these comments are available at [http://oba.od.nih.gov/gtr/gtr\\_comments.html](http://oba.od.nih.gov/gtr/gtr_comments.html).

## II. Public Meeting Focus

NIH will begin the November 2 public meeting with an overview of the public comments that were received in response to the RFI and a presentation of prototype data elements for the GTR. The remainder of the meeting will be dedicated to a moderated discussion of responses to specific questions about the GTR. The meeting agenda will be available on the Internet at [http://oba.od.nih.gov/gtr/gtr\\_meetings.html](http://oba.od.nih.gov/gtr/gtr_meetings.html).

The RFI comments have been helpful in the development of a prototype of registry data elements. However, NIH seeks further public input on specific aspects of the GTR and requests that comments address the questions below. If time permits, discussion of additional issues will be accommodated.

1. Based on an analysis of RFI comments and other operational issues, NIH is considering a phased approach to developing the GTR in which some types of tests would be eligible for early entry in the GTR and other types of tests would be added later. If NIH adopts this approach, what criteria should be used to determine which genetic tests should be included in the first phase of the GTR, and what types of tests would meet these criteria?

2. Several RFI responders, who are potential data submitters, noted that it makes more sense for clinicians and genetics professionals to be the source

of clinical utility evidence rather than test developers and/or test providers. Given that data submitters are unlikely to have clinical utility information, how is this data element best addressed in the GTR?

3. Among responders to the RFI question about including a data element for test cost, half were in favor of including cost information and half were opposed. What are the benefits, risks, and challenges of including cost information in the GTR?

4. What safeguards can be put in place to prevent GTR users from misunderstanding, misinterpreting, or misusing the information in the Registry?

5. What mechanisms can be used to provide materials that explain the GTR's data elements to audiences with varying technical expertise?

Dated: October 5, 2010.

**Amy P. Patterson,**

*Acting Associate Director for Science Policy, NIH.*

[FR Doc. 2010-25411 Filed 10-7-10; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Office of Administration; Single-Source Cooperative Agreement Award; Announcing the Award a Single-Source Cooperative Agreement to the Johns Hopkins University, Applied Physics Lab (APL) and School of Public Health, To Support the Development of a Human Services National Interoperable Architecture

**AGENCY:** Office of Information Services, OA, ACF, HHS.

**ACTION:** Notice.

*CFDA Number:* 93.647.

*Legislative Authority:* This award will be made pursuant to the Patient Protection and Affordable Care Act (ACA) [Pub. L. 111-148] and the Improper Payments Elimination and Recovery Act of 2010 [Pub. L. 111-204].

*Amount of Award:* \$1,500,000.

*Project Period:* September 17, 2010 through September 16, 2011.

**SUMMARY:** The Administration for Children and Families (ACF), Office of Administration (OA), Office of Information Services (OIS) announces the award of a single-source cooperative agreement to the Johns Hopkins University (JHU), Applied Physics Lab (APL) and School of Public Health, in Baltimore, MD, to support the

development of a Human Services National Interoperable Architecture. Under the award, APL will develop an architectural framework that will be used as a model to facilitate State and local agencies in information exchanges among eligibility and verification services that are developed by the HHS/Centers for Medicare and Medicaid Services (CMS) under the requirements of the Patient Protection and Affordable Care Act (ACA).

To address issues related to implementation of the ACA and the Improper Payments and Recovery Act of 2010, the Administration has directed Agencies to begin to design and execute plans related to the legislation. Under ACA, CMS has been directed to create a technical solution that enables health-related eligibility and enrollment functions and to ensure that the human services agencies can use the solutions for human services eligibility and verification determination. Under the Improper Payments and Recovery Act of 2010, Agencies must design and begin the execution of plans to eliminate improper payments and fraud.

JHU will create the development of a conceptual information technology architecture with ACF/Office of Information Services. The project will produce a solution that supports information exchanges and interoperability that will lead to reductions in improper payments as a preventative step in the program integrity process.

#### FOR FURTHER INFORMATION CONTACT:

David Jenkins, Federal Project Officer, Office of Administration, Office of Information Services, Administration for Children and Families, 901 D Street, SW., 3rd Floor West, Washington, DC 20047; E-mail: [David.Jenkins@acf.hhs.gov](mailto:David.Jenkins@acf.hhs.gov); Telephone: (202) 690-5802.

Dated: October 1, 2010.

**Michael Curtis,**

*Director, Office of Information Services.*

[FR Doc. 2010-25429 Filed 10-7-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[USCG-2009-0560]

#### Collection of Information Under Review by Office of Management and Budget: OMB Control Number: 1625-New

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) requesting an extension of its approval for the following collection of information: 1625–New, Port Stakeholder Interface Form. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Please submit comments on or before November 8, 2010.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2009–0560] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) or to OIRA. To avoid duplication, please submit your comments by only one of the following means:

(1) *Electronic submission.* (a) To Coast Guard docket at <http://www.regulation.gov>. (b) To OIRA by e-mail via: [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov).

(2) *Mail or Hand delivery.* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hand deliver between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax.* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–5806. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at <http://www.regulations.gov>.

A copy of the ICR is available through the docket on the Internet at <http://www.regulations.gov>. Additionally, copies are available from: Commandant

(CG–611), Attn Paperwork Reduction Act Manager, U.S. Coast Guard, 2100 2nd St., SW., Stop 7101, Washington, DC 20593–7101.

**FOR FURTHER INFORMATION CONTACT:** Contact Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

**SUPPLEMENTARY INFORMATION:**

The Coast Guard invites comments on whether this ICR should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2009–0560]. For your comments to OIRA to be considered, it is best if they are received on or before November 8, 2010.

*Public participation and request for comments:* We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to <http://www.regulations.gov>. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the “Privacy Act” paragraph below.

*Submitting comments:* If you submit a comment, please include the docket number [USCG–2009–0560], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you

submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. In response to your comments, we may revise the ICR or decide not to seek an extension of approval for this collection. The Coast Guard and OIRA will consider all comments and material received during the comment period.

*Viewing comments and documents:* Go to <http://www.regulations.gov> to view documents mentioned in this Notice as being available in the docket. Click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2009–0560” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act statement regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

**Previous Request for Comments**

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (75 FR 1068, January 8, 2010) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

**Information Collection Request**

*Title:* Port Stakeholder Interface Form.

*Omb Control Number:* 1625–New.

*Type of Request:* New collection.

*Respondents:* Owners and operators of port facilities.

*Abstract:* Section 202 of Public Law 109–347 authorizes the Secretary, Department of Homeland Security, to develop and update, as necessary, protocols for the resumption of trade in the event of a transportation disruption/security incident. It further instructs that appropriate factors be considered for establishing prioritization of vessels and cargo determined by the President to be critical for response and recovery, including factors relating to public health, national security, and economic need.

*Forms:* CG–3142.

*Burden Estimate:* This is a new collection with an estimated burden hours of 12,000 per year.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: October 1, 2010.

**R.E. Day,**

*Rear Admiral, U.S. Coast Guard Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.*

[FR Doc. 2010-25382 Filed 10-7-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### United States Secret Service

#### Proposed Information Collection

**ACTION:** 60 Day Notice of proposed information collection.

**SUMMARY:** The U.S. Department of Homeland Security, Office of the Chief Information Officer, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1995. Currently, the U.S. Secret Service, within the U.S. Department of Homeland Security is soliciting comments concerning the SSF 86A, Supplemental Investigative Data.

**DATES:** Interested persons are invited to submit comments on or before December 7, 2010.

**ADDRESSES:** Direct all written comments to United States Secret Service, Security Clearance Division, Attn: Althea Washington, Personnel Security Branch, 950 H St., NW., Washington, DC 20223, Suite 3800, 202-406-5975. Individuals who use a telecommunications device for the deaf (TDD) may either call the Federal Information Relay Service (FIRS) at 1-800-877-8339 or call directly (TTY) 202-406-5390.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to: United States Secret Service, Security Clearance Division, Attn: Robin DeProspero, Security Clearance Division, 950 H Street, NW., Washington, DC 20223. Telephone number: 202-406-6658.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires each Federal agency to provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The notice for this proposed information collection contains the following: (1) The name of the component of the U.S. Department of Homeland Security; (2) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (3) OMB Control

Number, if applicable; (4) Title; (5) Summary of the collection; (6) Description of the need for, and proposed use of, the information; (7) Respondents and frequency of collection; and (8) Reporting and/or Recordkeeping burden. The Department of Homeland Security invites public comment.

The Department of Homeland Security is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, including whether the information will have practical utility; (2) Is the estimate of burden for this information collection accurate; (3) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (4) How might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

**Abstract:** Respondents are all Secret Service applicants. These applicants, if approved for hire, will require a Top Secret Clearance, and possible SCI Access. Responses to questions on the SSF 86A yields information necessary for the adjudication for eligibility of the clearance, as well as ensuring that the applicant meets all internal agency requirements.

**Agency:** United States Secret Service.  
**Title:** Supplemental Investigative Data.

**OMB Control Number:** 1620-0001.

**Form Number:** SSF 86A.

**Frequency:** Occasionally.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Individuals.

**Reporting and Recordkeeping Hour Burden:**

**Responses:** 10,000.

**Burden Hours:** 30,000.

**Billing Code:** 4810-42.

Dated: October 5, 2010.

**Sharon Johnson,**

*Chief—Policy Analysis and Organizational Development Branch, U.S. Secret Service, U.S. Department of Homeland Security.*

[FR Doc. 2010-25413 Filed 10-7-10; 8:45 am]

**BILLING CODE 4810-42-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5380-N-41]

### Notice of Proposed Information Collection: Comment Request Contractor's Requisition—Project Mortgages

**AGENCY:** Office of the Assistant Secretary for 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:* December 7, 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: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Joyce Allen, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-1142 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 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:* Contractor's Requisition-Project Mortgages.

*OMB Control Number, if applicable:* 2502-0028.

*Description of the need for the information and proposed use:* The information collection is used to obtain program benefits, consisting of distribution of insured mortgage

proceeds when construction costs are involved. The information regarding completed work items is used by the Multifamily Hub Centers to ensure that payments from mortgage proceeds are made for work actually completed in a satisfactory manner. The certification regarding prevailing wages is used by the Multifamily Hub Centers to ensure compliance with prevailing wage rates.

*Agency form numbers, if applicable:* HUD-92448.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response:* The number of burden hours is 93,600. The number of respondents is 1,300. The estimated number of annual responses is 15,600. The frequency of each response is monthly for each application submitted for mortgage insurance.

Status of the proposed information collection:

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010-25348 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5380-N-39]

### Notice of Proposed Information Collection: Comment Request; Home Equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents

**AGENCY:** Office of the Assistant Secretary for 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:* December 7, 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:** Karin Hill, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-4308 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 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:* Home equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents

*OMB Control Number, if applicable:* 2502-0524.

*Description of the need for the information and proposed use:* The Residential Loan Application for Reverse Mortgages and related documents are used to determine borrower eligibility, property analysis, underwriting analysis, and collection of mortgage insurance premiums for loans that meet statutory, regulatory, state and FHA requirements.

*Agency form numbers, if applicable:* HUD-92900-A, Fannie Mae 1009, HUD-92901, HUD-1, HUD-1 Addendum, HUD-92051, HUD-92561, HUD 92800.5B, Fannie Mae 1004, Fannie Mae 1004C, Fannie Mae 1025, Fannie Mae 1073.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and*

*hours of response:* The number of burden hours is 450,235. The number of respondents is 1,100, the number of responses is 129,000, the frequency of response is on occasion, and the burden hour per response is 3.2.

*Status of the proposed information collection:* This is an extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010-25350 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5380-N-40]

### Notice of Proposed Information Collection: Comment Request; The Multifamily Accelerated Processing Guide

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, 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:* December 7, 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: Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; or the number for the Federal Information Relay Service (1-800-877-8339).

**FOR FURTHER INFORMATION CONTACT:** Joyce Allen, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-1142 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 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:* Multifamily Accelerated Processing Guide (MAP).

*OMB Control Number, if applicable:* Chapter 2—Lender Qualifications approved under OMB Number 2502–0541.

*Description of the need for the information and proposed use:* Multifamily Accelerated Processing (MAP) was initiated by the Department in May 2000. MAP is a procedure that permits approved Federal Housing Administration (FHA) Lenders to prepare, process, and submit loan applications for FHA multifamily mortgage insurance.

*Agency form numbers, if applicable:* None.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 419,775. The number of respondents is 90 (FHA approved MAP Lenders); the number of responses is 1,045, the frequency of response is one per submission, and the burden hour per response is 436.

*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: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010–25349 Filed 10–7–10; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5380–N–42]

### Notice of Submission of Proposed Information Collection to OMB; Policies and Procedures for the Conversion of Efficiencies Units to One Bedroom Units

**AGENCY:** Office of the Assistant Secretary for 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:* December 7, 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:**

Harry Messner, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail [harry.messner@hud.gov](mailto:harry.messner@hud.gov) or telephone (202) 402–2626 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 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:

*OMB Control Number:* 2502–0592.

*Agency Form Numbers:* None.

*Members of Affected Public:* Not-for-profit institutions, State, Local or Tribal Government.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response:* The number of burden hours is 2,387,275. The number of respondents is 23,578, the number of responses is 1,179, the frequency of response is once per submission, and the burden hour per response is 26.

*Status of the proposed information collection:* This is an extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010–25347 Filed 10–7–10; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5378–N–05]

### Notice of Proposed Information Collection Comment Request; Economic Opportunities for Low- and Very Low-Income Persons

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Notice.

**SUMMARY:** The currently approved information collection related to Section 3 of the Housing and Urban Development Act of 1968 (2529–0043) will be submitted to the Office of Management and Budget (OMB) for an extension of the expiration date, as required by the Paperwork Reduction Act. Form HUD 60002 is being submitted without any changes. Form HUD 958 has been revised to more accurately reflect the complaint investigation procedures set forth in the Section 3 regulation at 24 CFR part 135. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* December 7, 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: Colette Pollard, Paperwork Reduction Act Officer, Office of the Chief Information Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410. Telephone number (202) 402-3400.

**FOR FURTHER INFORMATION CONTACT:**

Staci Gilliam, Director, Economic Opportunity Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street, SW., Room 5234, Washington, DC 20410, telephone (202) 402-3468. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8399.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the currently approved information collection for 2529-0043 to OMB for an extension of the current expiration date, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 34, as amended). Form HUD 60002 is being submitted without any changes. Form HUD 958 has been revised to more accurately reflect the complaint investigation procedures set forth in the Section 3 regulation at 24 CFR part 135. This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Enhance the effectiveness of the Section 3 Program, (2) Enhance the quality, utility, and clarity of the information to be collected; and (3) Minimize the burden of the collection of information on those who respond, including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Notice of Submission of Proposed Information Collection to OMB**

*Title of Proposal:* Economic Opportunity for Low- and Very Low-Income Persons.

*Office:* Fair Housing and Equal Opportunity.

*OMB Control Number:* 2529-0043.

*Description of the need for the information and proposed use:*

**A. The Section 3 Summary Report (HUD Form 60002)**

The information will be used by the Department to monitor program recipients for compliance with the requirements of Section 3 of the Housing and Urban Development Act of 1968. HUD Headquarters will use the

information to assess the results of each recipient's efforts to meet the regulatory objectives of Section 3, and to prepare mandatory reports for Congress and the general public assessing the effectiveness of Section 3. The data collected will be used by recipients as a self-monitoring tool. The data collection for this form is unchanged.

**B. Complaint register (Revised HUD Form 958)**

The information will be used by residents and businesses to submit complaints alleging noncompliance with the regulatory requirements of Section 3. HUD staff will use this form to respond to and investigate complaints filed. The data collection for this form has been revised to more accurately reflect the complaint investigation procedures set forth in the Section 3 regulation at 24 CFR part 135.

*Agency form numbers, if applicable:* Form HUD 60002 and HUD 958 Revised.

*Members of affected public:* State and local government agencies; public and private non-profit organizations; Public Housing Authorities; other public entities; low- and very low-income persons; and/or businesses that are either owned by, or substantially employ, low- or very low-income persons.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* On an annual basis approximately 5,000 respondents (HUD recipients) will submit form HUD 60002 to HUD. It is estimated that four hours per annual reporting period will be required of the recipients to prepare the Section 3 report for a total of 20,000 hours. Form HUD 958 is submitted by approximately 100 persons annually and takes approximately 2 hours to complete for a total of 200 hours.

*Status of the proposed information collection:* Reinstatement of a currently approved collection of information from HUD recipients. Form HUD 60002 is unchanged. Form HUD 958 is submitted with changes.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 29, 2010.

**Staci Gilliam,**

*Director, Economic Opportunity Division.*

[FR Doc. 2010-25358 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5380-N-36]

**Notice of Proposed Information Collection: Comment Request; HUD-Owned Real Estate-Good Neighbor Next Door Program**

**AGENCY:** Office of the Assistant Secretary for 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:* December 7, 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:** Vance Morris, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-1672 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 the use of appropriate automated collection techniques or other forms of

information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* HUD-Owned Real Estate-Good Neighbor Next Door Program.

*OMB Control Number, if applicable:* 2502-0570.

*Description of the need for the information and proposed use:* This information collection is used to determine the eligibility of prospective program participants and in binding contracts between purchasers of acquired single family assets and HUD through the GNND program.

*Agency form numbers, if applicable:* HUD 9549, HUD 9549-A, HUD 9549-B, HUD 9549-C, HUD 9549-D, HUD 9549-E

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 205. The number of respondents is 5,786, the number of responses is 5,786, the frequency of response is on occasion, and the burden hour per response is 2 minutes.

*Status of the proposed information collection:* Extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010-25357 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5380-N-37]

### Notice of Proposed Information Collection: Comment Request; Recertification of Family Income and Composition, Section 235(b) and Statistical Report Section 235(b), (i) and (j)

**AGENCY:** Office of the Assistant Secretary for 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:* December 7, 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:** Vance Morris, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-3175 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 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:* Recertification of Family Income and Composition, Section 235(b) and Statistical Report Section 235(b), (i) and (j).

*OMB Control Number, if applicable:* 2502-0082.

The Form HUD-93101 is sent by lenders to individual borrowers to determine and adjust the amount of subsidy a mortgagor is eligible to receive. It is used for securing recertifications. The forms serve as vehicles for obtaining the information necessary to determine family income and composition, and to compute assistance under HUD guidelines. The HUD-93101-A form is no longer submitted to HUD by lenders for statistical analysis of increase and decrease in subsidy and general

program information. Mortgagees maintain copies of both forms HUD-93101 and 93101-A for audit purposes.

*Agency form numbers, if applicable:* HUD-93101 and HUD-93101-A.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of respondents is 7,000, the frequency of responses is annually, for a total of 7,000 total annual responses. The estimated time to prepare collection varies from 6 minutes to 1 hour, for a total annual burden hours of 3,850.

*Status of the proposed information collection:* This is an extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010-25355 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5380-N-38]

### Notice of Proposed Information Collection: Comment Request; HUD-Owned Real Estate—Dollar Home Sales Program

**AGENCY:** Office of the Assistant Secretary for 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:* December 7, 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:** Vance Morris, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC

20410, telephone (202) 708-3175 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting 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 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 the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* HUD-Owned Real Estate—Dollar Home Sales Program.  
*OMB Control Number, if applicable:* 2502-0569.

*Description of the need for the information and proposed use:* This collection was formerly part of a collection titled Single Family Housing Property Disposition and Acquisition (Conveyance) of Mortgaged Properties. HUD published a **Federal Register** notice soliciting public comments on April 17, 2006 (Vol. 71, No. 73, pages 19746-19746). No comments were received. Since that publication, however, the information collection request for the Dollar Home Sales Program has been disaggregated. This revision now presents only documents related to the Dollar Home Sales Program. Among the information collections are a local government's notification to HUD of disposition strategies and public purpose goals; affirmation that all profits from re-sales of these Dollar Homes will go to support local housing/community development initiatives; identification of specific programs or uses any profits will support; identification of an agency of government to act as the local government's agent to purchase Dollar Homes; recordkeeping; and an annual report to HUD.

*Agency form numbers, if applicable:* None.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The estimated number of burden hours needed to prepare the information collection is 688 hours; the number of respondents is approximately 110, generating approximately 825 annual responses; the frequency of response is "on occasion" and annually; and the estimated time needed to prepare the response varies from 30 minutes to one hour per response.

*Status of the proposed information collection:* This is a request for a new collection to disaggregate only those information collection requirements of the Dollar Home Sales Program.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 1, 2010.

**Ronald Y. Spraker,**

*Associate General Deputy Assistant Secretary for Housing.*

[FR Doc. 2010-25353 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5375-N-39]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**DATES:** *Effective Date:* October 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist

the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 30, 2010.

**Mark R. Johnston,**

*Deputy Assistant Secretary for Special Needs.*

[FR Doc. 2010-25025 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5406-N-03]

### Notice of a Federal Advisory Committee Meeting Manufactured Housing Consensus Committee

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Notice of a federal advisory committee meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda for a meeting of the Manufactured Housing Consensus Committee (the Committee). The meeting is open to the public and the site is accessible to individuals with disabilities.

**DATES:** The meeting will be held on October 27-28, 2010.

**ADDRESSES:** The meeting will be held at: Holiday Inn Arlington, 4610 N. Fairfax Drive, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Cocke, Deputy Administrator, Department of Housing and Urban Development, 451 7th Street, SW., 9164, Washington, DC 20410, telephone (202) 708-6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.2) and implementing regulations. 41 CFR 102-3.150. The Manufactured Housing Consensus Committee was established under section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403(a)(3), providing:

(A) *Purpose*—There is established a committee to be known as the "consensus committee", which shall, in accordance with this title—

(i) Provide periodic recommendations to the Secretary to adopt, revise, and

interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;

(ii) Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b);

(iii) Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation; and

(iv) Be deemed to be an advisory committee not composed of Federal employees.

#### Tentative Agenda

Convene  
Federal Advisory Committee  
preliminaries  
Establish presence of Designated  
Federal Official (DFO)  
DFO Announcements  
Call to Order  
Roll Call/Establish Quorum  
Welcome/Introductions/New Members  
Administrative Matters/Announcements  
Report from HUD officials  
Call for Committee Reports (status  
information only)  
Public Comments  
Proposals from MHCC to HUD  
MHCC recommendations to the  
Secretary to adopt, revise, and  
interpret the Federal manufactured  
housing construction and safety  
standards  
MHCC recommendations to the  
Secretary to adopt, revise, and  
interpret the procedural and  
enforcement regulations  
Proposals from HUD to MHCC  
Adjourn

Dated: October 4, 2010.

**David H. Stevens,**

*Assistant Secretary for Housing—Federal  
Housing Commissioner.*

[FR Doc. 2010-25443 Filed 10-7-10; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### U.S. Geological Survey

[USGS-8327CPDM2]

#### Notice of a Revision of a Currently Approved Information Collection (1028-0091)

##### Correction

In notice document 2010-24374 beginning on page 60134 in the issue of

Wednesday, September 29, make the following correction:

On page 60135, in the second line of the section beginning with **DATES**, “December 28, 2010” should read “October 29, 2010”.

[FR Doc. C1-2010-24374 Filed 10-7-10; 8:45 am]

**BILLING CODE 1505-01-D**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R5-R-2010-N115; BAC-4311-K9-S3]

#### Nomans Land Island National Wildlife Refuge, Town of Chilmark, Martha’s Vineyard, MA

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of final comprehensive conservation plan and finding of no significant impact for environmental assessment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for Nomans Land Island National Wildlife Refuge (NWR). In this final CCP, we describe how we will manage this refuge for the next 15 years.

**ADDRESSES:** You may view or obtain copies of the final CCP and FONSI by any of the following methods. You may request a hard copy or CD-ROM.

*Agency Web site:* Download a copy of the document(s) at <http://www.fws.gov/northeast/planning/NomansLand/ccphome.html>.

*Electronic mail:* [northeastplanning@fws.gov](mailto:northeastplanning@fws.gov). Include “Nomans Land Island final CCP” in the subject line of the message.

*U.S. Postal Service:* Eastern Massachusetts NWR Complex, 73 Weir Hill Road, Sudbury, MA 01776.

*In-Person Viewing or Pickup:* Call 978-443-4661 to make an appointment during regular business hours at the above address.

*Facsimile:* 978-443-2898.

#### FOR FURTHER INFORMATION CONTACT:

Libby Herland, Project Leader, Eastern Massachusetts NWR Complex, 73 Weir Hill Road, Sudbury, MA 01776; phone: 413-443-4661, or Carl Melberg, Planning Team Leader, phone: 978-443-4661; electronic mail:

[Carl\\_Melberg@fws.gov](mailto:Carl_Melberg@fws.gov).

#### SUPPLEMENTARY INFORMATION:

##### Introduction

With this notice, we finalize the CCP process for Nomans Land Island NWR,

which we started with the notice of intent we published in the **Federal Register** (69 FR 72210) on December 13, 2008. We prepared the EA/draft CCP in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and the National Wildlife Refuge System Administration Act of 1966 (Administration Act) (16 U.S.C. 668dd-668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act). We released the EA/draft CCP to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (75 FR 30052) on May 28, 2010.

Nomans Land Island is a 628-acre roadless island located approximately 3 miles south of Martha’s Vineyard, Massachusetts. The refuge was established in 1998 for the conservation and management of migratory birds. We first began managing a portion of the eastern side of the island in 1970 as an “overlay” refuge under a joint management agreement between the U.S. Department of the Interior and the U.S. Department of the Navy (Navy), while it was still under Navy management. In 1998, management of the island was transferred to the Service, and all 628 acres became Nomans Land Island NWR.

This island has a unique history, from its use by Native Americans as a summer camp, to sheep grazing when the island was privately owned in the 1800s, to use as a bombing range by the Navy during World War II. Because Nomans Land Island provides diverse habitats including intertidal, freshwater wetland, grassland, and shrubland habitats, it serves an important role for nesting landbirds and colonial waterbirds, and is a stopover for migratory birds and raptors, including the peregrine falcon.

We announce our decision and the availability of the FONSI for the final CCP for Nomans Land Island NWR in accordance with NEPA requirements. The FONSI is included as Appendix K in the final CCP. We completed a thorough analysis of impacts on the human environment, which we included in the EA/draft CCP.

Alternative C, as we described in the EA/draft CCP, is the foundation for the final CCP.

#### Background

The Administration Act, as amended by the Improvement Act, 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 (NWRS), 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.

#### CCP Alternatives, Including Selected Alternative

Our EA/draft CCP addressed several key issues, including the amount of shrubland to manage, other priority habitat types to conserve, land protection and conservation priorities, improving the visibility of the Service and refuge, and ways to improve opportunities for off-site public use while ensuring the restoration and protection of priority ecological and cultural resources.

To address these issues and develop a plan based on the purposes for establishing the refuge, and the vision and goals we identified, we identified three alternatives in the EA. The alternatives have some actions in common, such as protecting and monitoring federally listed species and the regionally significant coastal shrubland, controlling invasive plants and wildlife diseases, monitoring programs that benefit our resource decisions, protecting cultural resources, and distributing refuge revenue-sharing payments to counties.

Other actions distinguish the alternatives. Alternative A, or the "No Action Alternative," consists of our current management activities. It serves as the baseline against which to compare the other two alternatives. Our habitat management and visitor services programs would not change under this alternative. We would continue to use the same tools and techniques, and not expand existing facilities. Under Alternative A, we would continue to passively manage refuge lands, and the Service would have minimal presence. Habitat management would be limited to continuing to passively oversee the current 400 acres of shrub habitat, up to 150 acres of freshwater wetland communities, 100 acres of marine intertidal beach and rocky shore habitat, and 15 acres of herbaceous upland dune vegetation. We would continue minimal monitoring of focal species as current

staffing allows. We would provide oversight and coordination to Navy contaminant and unexploded ordnance (UXO) cleanup.

The refuge would continue to be closed to the public. Administration of off-site visitor services, land protection, and biological and law enforcement activities would be handled by existing staff from the Eastern Massachusetts NWR Complex based in Sudbury, Massachusetts, as funds and staffing permit.

Under Alternative B, we would emphasize more active monitoring and management of all refuge habitats to support focal species whose habitat needs also benefit other species of conservation concern in the region. In particular, the alternative emphasizes active habitat management for breeding and migrating priority bird species of conservation concern identified by national, regional, and State conservation plans.

With the addition of seasonal biological and law enforcement staff, under Alternative B, we would also implement a more active prescribed burning regime, invasive species and predator control programs, and better enforcement of the no-public-access policy. We would actively monitor and manage beach/nesting species such as terns, plovers, and rare plants, and consider the introduction of the New England cottontail. We would improve our visitor services through partnerships and working with them to develop programs and facilities on their lands that help increase awareness of the refuge's biological and cultural resources. Finally, our biological program would be enhanced through partnerships that would increase our ability to conduct surveys and long-term monitoring.

Alternative C was identified as the Service-preferred alternative in the EA/draft CCP. It allows the 400 acres of critical migration stopover shrub habitat to be influenced by natural processes such as succession over the next 15 years, with minimal management. It allows coastal processes of wind and wave action to shape the current 15 acres of herbaceous upland dune vegetation, 100 acres of marine intertidal beach and rocky shore habitats, and almost 150 acres of freshwater wetlands. Under this alternative, we also would continue to study the feasibility of introducing New England cottontail on the refuge.

The alternative recognizes the island as one of the few opportunities in the Northeast region of the United States for wilderness designation and proposes pursuing formal designation as a unit of

the National Wilderness Preservation System. It also recognizes the need to coordinate with the Navy annually to promote communication, exchange information on Navy operations and management planning, and facilitate cleanup of contaminants and UXO on the refuge. We would also closely coordinate with the Navy and the Massachusetts State Historic Preservation Office for any proposed ground-disturbing activity. We would monitor vegetation changes every 3 years through aerial photography and/or site visitation. We would establish a fire regime to manage shrub habitat as needed, and we would monitor invasive plant species annually and control those that threaten healthy ecosystems.

Existing refuge complex staff would enhance the visitor services program through a broader array of off-site programming and outreach through partnership opportunities as they arise, similar to, but to a lesser extent than would take place under the other alternatives.

#### Comments

We invited comments on the EA/draft CCP during a public review and comment period, from May 28 through July 3, 2010, and held a public meeting on June 23, 2010, in the Town of Chilmark, Massachusetts.

We received 24 unique letters and oral comments representing individuals, organizations, and State agencies. We made modifications to the draft that are outlined in Appendix J, "Summary of Public Comments and Service's Response on the Environmental Assessment and Draft Comprehensive Conservation Plan for Nomans Land Island National Wildlife Refuge" in the final CCP. Highlights of some of the changes are listed below:

1. We were made aware of additional partnership opportunities on Martha's Vineyard and have modified the final CCP to reflect these opportunities (pages 4-7 through 4-8). We also inserted language in the Rationale to Objective 2.2 (page 4-30) that these partnerships would potentially provide additional resources to increase our visitor services capacity from what we originally proposed.

2. We added language to Chapter 4 in the final CCP (page 4-11) stating that although it would not be possible to clean up the island to pre-bombing conditions, we would continue to work with the Navy and Federal and State regulators for the 5-year site reviews as required by the Comprehensive Environmental Response, Compensation, and Liability Act. If, at some point in the future, there is a

major advance in technology that would allow the extraction of UXOs without massive ground disturbance or impact to wildlife, then additional cleanup might warrant further consideration at that time.

3. We included language in our Habitat Management and Protection summary in Chapter 4 of the final CCP (page 4–14) and biological rationales [Objectives 1.1 (page 4–19) and 1.2 (page 4–24)] to work with the Massachusetts Natural Heritage and Endangered Species Program to evaluate the appropriateness of altering the frequency of prescription burns to incorporate rare plant management, and for tern restoration efforts.

4. We added language to several sections in Chapter 3 and Chapter 4 in the final CCP to incorporate more life history information and to refine our biological objectives and management actions for piping plover (pages 3–33, 3–35, 4–21, 4–23, and 4–24). This is due to the presence of a breeding pair on the island for the first time in 30 years.

5. We corrected typographical and grammatical errors identified by reviewers.

#### Selected Alternative

After considering the comments we received on our EA/draft CCP, we have selected Alternative C for implementation, for several reasons. Alternative C comprises the mix of actions that, in our professional judgment, works best toward achieving refuge purposes, our vision and goals, and the goals of other State and regional conservation plans, and it is most consistent with the principles of sound fish and wildlife management. We also believe it most effectively addresses the key issues raised during the planning process. The basis of our decision is detailed in Appendix K, Finding of No Significant Impact, in the final CCP.

#### Public Availability of Documents

You can view or obtain documents as indicated under **ADDRESSES**.

Dated: September 9, 2010.

**James G. Geiger,**

*Acting Regional Director, Northeast Region,  
U.S. Fish and Wildlife Service, Hadley, MA  
01035.*

[FR Doc. 2010–25393 Filed 10–7–10; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Draft Environmental Impact Statement for the Proposed Manzanita Band of Kumeyaay Indians Fee-to-Trust Transfer and Casino Project, Calexico, CA

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Indian Affairs (BIA), as lead agency, and the National Indian Gaming Commission, the City of Calexico, and the Manzanita Band of Kumeyaay Indians as cooperating agencies, intend to file a Draft Environmental Impact Statement (DEIS) with the Environmental Protection Agency (EPA) for the Tribe's proposed 60.8-acre fee-to-trust transfer and casino project to be located in Calexico, California, and that the DEIS is now available for public review and comment. This notice provides a 75-day public comment period, which adds a 30-day extension to the normal 45-day public comment period.

**DATES:** The DEIS will be available for public comment beginning October 8, 2010. Written comments on the DEIS must arrive by December 22, 2010. A public hearing will be held on Wednesday, November 10, 2010 from 6 p.m. to 9 p.m. or until the last public comment is received.

**ADDRESSES:** You may mail or hand carry written comments to Dale Risling, Acting Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. A public hearing will be held at: City of Calexico, 608 Heber Avenue, Calexico, California 92231. See the **SUPPLEMENTARY INFORMATION** section of this notice for directions on submitting comments and for locations where the DEIS will be available for review.

**FOR FURTHER INFORMATION CONTACT:** John Ryzdik (916) 978–6051.

**SUPPLEMENTARY INFORMATION:** The Tribe proposes that 60.8 acres of land be taken into trust for the purpose of developing a casino facility. The property is located at the northernmost gateway to the City of Calexico, a California/Mexico border city of growing importance in international trade. The project site is situated at the southwest quadrant of State Highway 111 and Jasper Road and is bounded on the south and west by the Central Main and Dogwood Canals. The 60.8-acre parcel is undeveloped former agricultural land and is located within

the City of Calexico's proposed 111 Calexico Place project site, a commercial highway development project that was approved by the City of Calexico City Council on May 5, 2010.

The proposed action consists of the fee-to-trust transfer of the project site, Federal review (by the National Indian Gaming Commission) of the development and management contract, and development of the proposed project. The proposed project includes a 459,621-square-foot casino facility on the 60.8-acre parcel. The casino facility would include an approximately 93,880-square-foot casino; 63,000 square feet of food/beverage and retail components; a 38,660-square-foot entertainment venue; and 218,081 square feet of other operational facilities (e.g., back of house area, central plant). In addition, there will be a 46,000-square-foot banquet/meeting hall and 200-room hotel. The casino will have 2,000 slot machines and 45 gaming tables. There will be three guest restaurants and one employee dining room. A swimming pool and 6,000-space parking facility will also be developed within the project area.

BIA, serving as the lead agency for compliance with the National Environmental Policy Act (NEPA), published a Notice of Intent to prepare the EIS for the proposed action in the **Federal Register** on March 6, 2008. In addition, BIA held a public scoping meeting on March 27, 2008, at the County of Imperial's Board of Supervisors Chamber Room in the City of El Centro, California. From that scoping meeting, a range of project alternatives were developed and subsequently analyzed in the DEIS, including: (1) Alternative A—Proposed Action, (2) Alternative B—Reduced Casino, and (3) Alternative C—No Action. Environmental issues addressed in the DEIS include land resources, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions, transportation, land use and agriculture, public services, noise, hazardous materials, visual resources, environmental justice, growth inducing effects, indirect effects, cumulative effects, and mitigation measures.

#### Directions for Submitting Comments

Please include on the first page of your written comments your name, return address, and the phrase "DEIS Comments, Manzanita Band of Kumeyaay Indians, 60.8-Acre Fee-to-Trust Casino Project, Calexico, California."

### Availability of DEIS for Review

The DEIS will be available to view at Holtville Branch—Meyer Memorial Library, 101 E. 6th Street, Holtville, CA 92250 and at the City of Calexico—Camarena Memorial Library, 850 Encinas Avenue, Calexico, CA 92231. General information for the Holtville Branch—Meyer Memorial Library can be obtained by calling (760) 356-2385 and the City of Calexico—Camarena Memorial Library by calling (760) 768-2170. An electronic version of the DEIS can also be viewed at: <http://www.manazanita.com/eis.html>.

To obtain a compact disk copy of the DEIS, please provide your name and address in writing or by voicemail to John Rydzik, Chief of the Division of Environmental, Cultural Resources Management and Safety, at the telephone number provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual paper copies of the DEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

### Public Comment Availability

Written comments, including the names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Authority

This notice is published pursuant to section 1503.1 of the Council of Environmental Quality regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of NEPA of 1969, as amended (42 U.S.C. 4371 *et seq.*), the Department of the Interior Manual (516 DM 1-6) and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: September 28, 2010.

**Larry Echo Hawk,**

*Assistant Secretary-Indian Affairs.*

[FR Doc. 2010-25417 Filed 10-7-10; 8:45 am]

**BILLING CODE 4310-W7-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM-2010-0036]

#### Notice of Intent To Conduct a Review of Categorical Exclusions for Outer Continental Shelf Decisions

**AGENCY:** Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

**ACTION:** Notice of Intent to Conduct a Review of BOEMRE Outer Continental Shelf (OCS) Categorical Exclusions under the National Environmental Policy Act (NEPA).

**SUMMARY:** The Department of the Interior (DOI), Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) is announcing its intent to conduct a broad review of its categorical exclusions (CEs) for Outer Continental Shelf (OCS) decisions. This review is being conducted in accordance with section 102 of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4332; the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR parts 1500-1508 (Nov. 1978); the CEQ Draft Guidance on Establishing and Applying Categorical Exclusions under NEPA (February 18, 2010); and consistent with recommendations provided by CEQ in their "Report Regarding the Minerals Management Service's National Environmental Policy Act Policies, Practices, and Procedures as They Relate to Outer Continental Shelf Oil and Gas Exploration and Development" (August 16, 2010). Furthermore, this notice provides the public an opportunity to comment on the issues that should be addressed by BOEMRE during the review of its CEs and their application to OCS decisionmaking. The BOEMRE will use and coordinate a commenting process to ensure public involvement.

**Authority:** The National Environmental Policy Act (NEPA) of 1969, as amended, established a national policy to protect the environment and also established the President's Council on Environmental Quality (CEQ). CEQ regulations at 40 CFR 1507.3 require Federal agencies to adopt procedures to implement NEPA, to consult with CEQ during their development, to provide an opportunity for public review, and to revise procedures as necessary to ensure full compliance with the purposes and provisions of the Act. The CEQ

regulations are available at [http://ceq.hss.doe.gov/nepa/regs/ceq/toc\\_ceq.htm](http://ceq.hss.doe.gov/nepa/regs/ceq/toc_ceq.htm).

The Department of the Interior NEPA procedures were promulgated as regulations and published in the **Federal Register** on October 15, 2008 (73 FR 61292). They can be found at (<http://www.doi.gov/oepr/nepafr/docs/Federal%20Register%20October%202015,%202008%20NEPA.pdf>). These regulations identify categories of actions taken throughout the Department that under normal circumstances do not have, and are not expected to have, significant individual or cumulative environmental impacts; therefore, the Bureau is not required to prepare an environmental assessment or environmental impact statement. These regulations also identify the extraordinary circumstances which nullify the use of the CE in particular circumstances. The CEQ regulations define "categorical exclusion" at 40 CFR 1508.4:

"Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

The Minerals Management Service (MMS, now BOEMRE) identified additional categories of actions designated as CEs, which include those related specifically to OCS activities. BOEMRE's CEs (Departmental Manual at 516 DM 15.4) can be found at [http://elips.doi.gov/app\\_dm/act\\_getfiles.cfm?relnum=3625](http://elips.doi.gov/app_dm/act_getfiles.cfm?relnum=3625) and are listed below:

#### A. General

(1) Inventory, data, and information collection, including the conduct of environmental monitoring and nondestructive research programs.

(2) Actions for which MMS has concurrence or co-approval with another Bureau if the action is a categorical exclusion for that Bureau.

#### B. Internal Program Initiatives

(1) All resource evaluation activities including surveying, mapping, and geophysical surveying which do not use solid or liquid explosives.

(2) Collection of geologic data and samples including geologic, paleontologic, mineralogic, geochemical, and geophysical investigations which does not involve drilling beyond 50 feet of consolidated rock or beyond 300 feet of unconsolidated rock, including contracts therefor.

(3) Acquisition of existing geological or geophysical data from otherwise private exploration ventures.

(4) Well logging, digital modeling, inventory of existing wells, and installation of recording devices in wells.

(5) Establishment and installation of any research/monitoring devices.

(6) Test or exploration drilling and downhole testing included in a project previously subject to the NEPA process.

(7) Insignificant revisions to the approved 5-year leasing program.

(8) Prelease planning steps such as the Call for Information and Area Identification.

### C. Permit and Regulatory Functions

(1) Issuance and modification of regulations, Orders, Standards, Notices to Lessees and Operators. Guidelines and field rules for which the impacts are limited to administrative, economic, or technological effects and the environmental impacts are minimal.

(2) Approval of production measurement methods, facilities, and procedures.

(3) Approval of off-lease storage in existing facilities.

(4) Approval of unitization agreements, pooling, or communitization agreements.

(5) Approval of commingling of production.

(6) Approval of suspensions of operations and suspensions of production.

(7) Approval of lease consolidation applications, lease assignments or transfers, operating rights, operating agreements, lease extensions, lease relinquishments, and bond terminations.

(8) Administration decisions and actions and record keeping such as:

(a) Approval of applications for pricing determinations under the Natural Gas Policy Act.

(b) Approval of underground gas storage agreements from a presently or formerly productive reservoir.

(c) Issuance of paying well determinations and participating area approvals.

(d) Issuance of drainage determinations.

(9) Approval of offshore geological and geophysical mineral exploration

activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.

(10) Approval of an offshore lease or unit exploration, development/production plan or a Development Operation Coordination Document in the central or western Gulf of Mexico (30 CFR 250.2) except those proposing facilities: (1) In areas of high seismic risk or seismicity, relatively untested deep water, or remote areas, or (2) within the boundary of a proposed or established marine sanctuary, and/or within or near the boundary of a proposed or established wildlife refuge or areas of high biological sensitivity; or (3) in areas of hazardous natural bottom conditions; or (4) utilizing new or unusual technology.

(11) Approval of minor revisions of or minor variances from activities described in an approved offshore exploration or development/production plan, including pipeline applications.

(12) Approval of an Application for Permit to Drill (APD) an offshore oil and gas exploration or development well, when said well and appropriate mitigation measures are described in an approved exploration plan, development plan, production plan, or Development Operations Coordination Document.

(13) Preliminary activities conducted on a lease prior to approval of an exploration or development/production plan or a Development Operations Coordination Plan. These are activities such as geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan, development/production plan, or Development Operations Coordination Plan.

(14) Approval of Sundry Notices and Reports on Wells.

(15) Rights-of-ways, easements, temporary use permits, and any revisions thereto that do not result in a new pipeline corridor to shore.

### D. Royalty Functions.—Does Not Apply

*Purpose of This Review of OCS Categorical Exclusions:* MMS reviewed and revised its CEs several times since their development dating back to the late 1970s and now BOEMRE is initiating another cycle of review as proposed herein. To ensure full compliance with NEPA and the regulations implementing NEPA, BOEMRE is announcing its intent to conduct a broad review of its CEs for OCS decisions. This notice requests the public as well as Federal, State, and local government agencies, and other interested parties to comment on the

appropriateness of and suggest revisions to existing BOEMRE CEs, as well as highlight issues that should be addressed by BOEMRE during the review of its CEs and their application to OCS decisionmaking. The BOEMRE will use and coordinate a commenting process to ensure public involvement.

**DATES:** Submit written comments no later than November 8, 2010.

**ADDRESSES:** The public as well as Federal, State, and local government agencies, and other interested parties are requested to send their written comments regarding issues that should be addressed by BOEMRE during the review of its CEs and their application to decisionmaking for OCS activities in one of the following ways:

1. In written form enclosed in an envelope labeled "Comments on the Review of Categorical Exclusions for Outer Continental Shelf Decisions" and mailed (or hand carried) to James F. Bennett, Chief, Environmental Assessment Branch, Environmental Division (MS 4042), Bureau of Ocean Energy, Regulation and Enforcement, Headquarters, 381 Elden Street, Herndon, Virginia 20170.

2. Electronically: go to <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter docket ID BOEM-2010-0036 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection.

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 submitted, will be made publicly available.

**FOR FURTHER INFORMATION CONTACT:** For more information on the review of BOEMRE CEs for OCS activities, you may contact James F. Bennett, Chief, Environmental Assessment Branch, Environmental Division (Mail Stop 4042), Bureau of Ocean Energy, Regulation and Enforcement, Headquarters, 381 Elden Street, Herndon, Virginia 20170. You may also contact Mr. Bennett by telephone at (703) 787-1660.

Dated: September 20, 2010.

**Robert P. LaBelle,**

*Acting Associate Director for Offshore Energy and Minerals Management.*

[FR Doc. 2010-25377 Filed 10-7-10; 8:45 am]

**BILLING CODE 4310-MR-P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-739]

### In the Matter of: Certain Ground Fault Circuit Interrupters and Products Containing 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 September 3, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Leviton Manufacturing Co., Inc. of Melville, New York. An amended complaint was filed on September 28, 2010. The complaint, as amended, 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 ground fault circuit interrupters and products containing same by reason of infringement of certain claims of U.S. Patent No. 7,463,124 ("the '124 patent"); U.S. Patent No. 7,737,809 ("the '809 patent"); and U.S. Patent No. 7,764,151 ("the '151 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 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:**  
Mareesa A. Frederick, Esq., Office of  
Unfair Import Investigations, U.S.  
International Trade Commission,  
telephone (202) 205-2055.

**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 October 1, 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 ground fault circuit interrupters and products containing same that infringe one or more of claims 1-7, 9-11, 13-17, 23-26, and 32-36 of the '124 patent; claims 1-11, 13-28, 30-59, 61-64, and 74-83 of the '809; and claims 1-4 and 8 of the '151 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:

Leviton Manufacturing Co., Inc., 201  
North Service Road, Melville, NY  
11747.

(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:

Fujian Hongan Electric Co., Ltd.,  
Yantian Industrial Zone, Xiapu,  
Fujian, 355106, China.  
General Protecht Group, Inc., 222 WeiQi  
Road, Yueqing Economic  
Development Zone, Yueqing, Zhejiang  
325600, China.  
Shanghai ELE Manufacturing  
Corporation, SEC 2 Xingcheng  
Industrial Zone, Qingpu, Shanghai  
201703, China.  
Zhejiang Trimone Co. Ltd., West of  
Xinxing San Road, South of Duli  
Road, Economic Development Zone,  
Pinghu, Zhejiang 314200, China.  
Zhejiang Easting House Electric Co.,  
Yaozhuang Industrial Zone, Jiashan,  
Zhejiang 314100, China.  
Menard, Inc., 4777 Menard Drive, Eau  
Claire, Wisconsin 54703.  
Garvin Industries, Inc., 3700 Sandra  
Street, Franklin Park, IL 60131.

Central Purchasing, LLC, 3491 Mission  
Oaks Boulevard, Camarillo, CA 93011.  
Harbor Freight Tools USA, Inc., 3491  
Mission Oaks Boulevard, Camarillo,  
CA 93011.  
Warehouse-Lighting.com LLC, W144  
S6305 College Center, Muskego, WI  
53150.  
SecurElectric Corporation, 2071  
Congressional Drive, St. Louis,  
Missouri 63146.  
G-Techt Global Corporation, 560  
Wharton Circle, Suite B-1, Atlanta,  
GA 30336.  
Frontier Lighting, Inc., 2090 Palmetto  
Street, Clearwater, FL 33765.  
The Designers Edge, Inc., 11730 N.E.  
12th Street, Bellevue, WA 98005.  
Orbit Industries, Inc., 2100 S. Figueroa  
Street, Los Angeles, CA 90007.  
Ready Wholesale Electric and Lighting,  
Inc., d/b/a Ready Wholesale Electric  
Supply, 18315 Sherman Way, Reseda,  
CA 91335.  
Sutherland Lumber Company, of Kansas  
City, LLC, d/b/a Sutherlands, 4000  
Main Street, Kansas City, MO 64111.  
W.E. Aubuchon Co., Inc., d/b/a  
Aubuchon Hardware, 95 Aubuchon  
Drive, Westminister, MA 01473.  
Westside Wholesale Electric & Lighting,  
Inc., 7122 Beverly Boulevard #A, Los  
Angeles, CA 90036.  
Deerso, Inc., 910 S.E. 14th Place, Cape  
Coral, FL 33990. New Aspen Devices  
Corp., 59 Van Dam Street, Brooklyn,  
NY 11222.  
American Ace Supply Inc., 923 Toland  
Street, San Francisco, CA 94124.  
Safety Plus Products, Inc., 4123  
Terminal Drive, McFarland, WI  
53558.  
Ingram Products, Inc., 8725  
Youngerman Ct., Suite 206,  
Jacksonville, FL 32244.  
American Electric Depot Inc., 56-24 199  
St., 1FL, Fresh Meadows, NY 11365.  
Contractor Lighting & Supply, Inc., 250  
East Broad St., Suite 200, Columbus,  
OH 43215.  
Royal Pacific Ltd., 4931 Paseo Del Norte  
NE, Albuquerque, NM 87113.  
Littman Bros. Energy Supplies, Inc., 900  
Estes Court, Schaumburg, IL 60193.  
Norcross Electric Supply Company,  
4190 Capital View Drive, Suwanee,  
GA 30024.  
(c) The Commission investigative  
attorney, party to this investigation, is  
Mareesa A. Frederick, Esq., Office of  
Unfair Import Investigations, U.S.  
International Trade Commission, 500 E  
Street, SW., Suite 401, Washington, DC  
20436; and  
(3) For the investigation so instituted,  
the Honorable Paul J. Luckern, Chief  
Administrative Law Judge, U.S.  
International Trade Commission, shall

designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 5, 2010.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 2010-25409 Filed 10-7-10; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Pursuant to 28 CFR 50.7, notice is hereby given that on September 30, 2010, a proposed Consent Decree in *United States of America v. Dakota Ethanol, LLC*, Civil Action No. 4:10-CV-04144-LLP, was lodged with the United States District Court for the District of South Dakota.

The Consent Decree would resolve claims asserted by the United States against Dakota Ethanol, LLC pursuant to Sections 111 and 502(a) of the Clean Air Act (the "Act"), 42 U.S.C. 7411 and 7661a, seeking injunctive relief and the assessment of civil penalties for Defendant's alleged violations of the Act. Dakota Ethanol, LLC owns and operates an ethanol production facility in Lake County, South Dakota, near Wentworth (the "Facility"). The

complaint alleges that Defendant violated the Facility's Title V operating permit by exceeding certain VOC emissions limits, conducting invalid testing to demonstrate compliance with its VOC emissions limits, and failing to timely conduct required VOC stack testing. The complaint also alleges that Defendant violated both its Title V operating permit and regulations promulgated pursuant to the New Source Performance Standards program by failing to maintain the internal floating roof on the liquid inside several storage vessels at the Facility.

The proposed Consent Decree would require Dakota Ethanol, LLC to conduct all VOC Performance Tests in accordance with 40 CFR part 51, Appendix M; Method 207 and 40 CFR part 60, Appendix A; Method 18 and to report the results of each performance test to EPA within ninety (90) days. In addition, the proposed Consent Decree would require Defendant to apply to include the testing requirements in either a federally enforceable permit or request a site-specific amendment to the South Dakota SIP to include the requirements enumerated in the Consent Decree within one hundred eighty (180) days. Finally, the proposed Consent Decree would require Dakota Ethanol, LLC to pay a \$75,000 civil penalty.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America v. Dakota Ethanol, LLC*, D.J. Ref. 90-5-2-1-08636.

The Consent Decree may be examined at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/ConsentDecrees.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$7.00 (25 cents per page reproduction cost) payable to the

U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010-25364 Filed 10-7-10; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Pursuant to 28 CFR 50.7, notice is hereby given that on September 30, 2010, a proposed Consent Decree in *United States of America v. James Valley Ethanol, LLC, Northern Lights Ethanol, LLC, and Poet Plant Management*, Civil Action No. 4:10-CV-04143-KES, was lodged with the United States District Court for the District of South Dakota.

The Consent Decree would resolve claims asserted by the United States against James Valley Ethanol, LLC ("James Valley"), Northern Lights Ethanol, LLC ("Northern Lights"), and POET Plant Management ("POET") pursuant to Sections 111 and 502(a) of the Clean Air Act (the "Act"), 42 U.S.C. 7411 and 7661a, seeking injunctive relief and civil penalties for Defendants' alleged violations of the Act.

Defendant James Valley owns an ethanol production facility in Brown County, South Dakota, near Groton (the "Groton Facility") and Defendant Northern Lights owns an ethanol production facility in Grant County, South Dakota, near Big Stone City (the "Big Stone Facility"). Defendant POET operates both the Groton and Big Stone Facilities. The complaint filed by the United States alleges that Defendants James Valley and POET violated the Title V operating permit for the Groton Facility and regulations promulgated pursuant to the New Source Performance Standards program by failing to maintain the internal floating roof on the liquid inside several storage vessels at the Groton Facility. The complaint also alleges that Defendant Northern Lights and POET violated the Title V operating permit for the Big Stone Facility by exceeding certain VOC emissions limits, conducting invalid testing to demonstrate compliance with its VOC emissions limits, and failing to install required monitoring devices. Finally, the complaint alleges that these Defendants violated both the Big Stone Facility's Title V operating permit and regulations promulgated pursuant to the

New Source Performance Standards program by failing to maintain the internal floating roof on the liquid inside several storage vessels at the Big Stone Facility.

The proposed Consent Decree would require Defendants to conduct all VOC Performance Tests for the Facilities in accordance with 40 CFR part 51, Appendix M; Method 207 and 40 CFR part 60, Appendix A; Method 18 and to report the results of each performance test to EPA within ninety (90) days. In addition, the proposed Consent Decree would require Defendants to apply to include the testing requirements in either a federally enforceable permit or request a site-specific amendment to the South Dakota SIP to include the requirements enumerated in the Consent Decree within one hundred eighty (180) days. Finally, the proposed Consent Decree would require Defendants to pay a \$150,000 civil penalty.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America v. James Valley Ethanol, LLC, Northern Lights Ethanol, LLC, and Poet Plant Management, D.J.* Ref. 90-5-2-1-08640.

The Consent Decree may be examined at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/ConsentDecrees.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$8.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the

Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010-25366 Filed 10-7-10; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Consistent with Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d), and 28 C.F.R. 50.7, notice is hereby given that on September 21, 2010, the United States lodged a Consent Decree with Bud's Oil Service, Inc. ("Settling Defendant") in *United States of America v. Bud's Oil Service, Inc.*, Case No. CV10-7032 GAF (AJWx) (C.D. Cal.), with respect to the Omega Chemical Superfund Site, located in Whittier, Los Angeles County, California (the "Omega Site") and the Casmalia Resources Superfund Site (the "Casmalia Site") (both referred to collectively as the "Sites"), located in Santa Barbara County, California.

On September 21, 2010, Plaintiff United States of America ("United States"), on behalf of the United States Environmental Protection Agency ("EPA") filed a complaint in this matter against defendant Bud's Oil Service, Inc., pursuant to CERCLA Section 107, 42 U.S.C. 9607, seeking recovery of environmental response costs incurred by EPA related to the release or threatened release or disposal of hazardous substances at or from the Sites.

Financial information provided by the Settling Defendant indicated a financial inability to pay. However, pursuant to settlement agreements between Settling Defendant and certain of its insurers, the United States has received reimbursement of response costs totalling \$485,000. Of this total, \$2,900 will be payable to or transferred by EPA to the Casmalia Resources Site Special Account. The remaining amount (\$482,100) will be applied towards the Omega Chemical Corporation Site Special Account. In exchange, the proposed Consent Decree provides Settling Defendant with a covenant not to sue and contribution protection with respect to the Sites.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America v. Bud's Oil Service, Inc.*, Case No. CV 10-7032 GAF (AJWx) (C.D. Cal.) (DOJ Ref. No. 90-11-3-06529/9). The Consent Decree may be examined at U.S. Environmental Protection Agency, Office of Regional Counsel, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105 (contact Stephen Berninger, (415) 972-3909). During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/ConsentDecrees.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please refer to *United States of America v. Bud's Oil Service, Inc.*, Case No. CV 10-7032 GAF (AJWx) (C.D. Cal.) (DOJ Ref. No. 90-11-3-06529/9), and enclose a check in the amount of \$ 6.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010-25423 Filed 10-7-10; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### Notice of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 4, 2010, a proposed Consent Decree in *United States v. Quality Distribution, Inc.*, Civil Action No. 1:10-cv-05098-NLH-KMW, was lodged with the United States District Court for the District of New Jersey.

The proposed Consent Decree will settle the United States' claims on behalf of the U.S. Environmental Protection Agency ("EPA") against

Defendant Quality Distribution, Inc. (“QDI”), pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9606 and 9607, with respect to the Chemical Leaman Tank Lines, Inc. Superfund Site, in Bridgeport, Logan Township, Gloucester County, New Jersey (“Site”). The Site is on the National Priorities List established pursuant to Section 105(a) of CERCLA, 42 U.S.C. 9605(a). Pursuant to the Consent Decree, QDI will: pay \$1,570,000 in reimbursement of the United States’ past response costs for “Operable Unit 2” (“OU2”), a category of remedial action addressing sources of groundwater contamination at the Site; reimburse the United States for its future response costs related to OU2 and to “Operable Unit 3,” a category of remedial action addressing wetland contamination at the Site. In addition, QDI will finance and perform a remedy selected by EPA for OU2, estimated to cost \$5,030,000.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments on the Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcommentees.enrd@usdoj.gov](mailto:pubcommentees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Quality Distribution, Inc.*, Civil Action No. 1:10-cv-05098-NLH-KMW, D.J. Ref. 90-11-2-296/2.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Jersey, Camden Federal Building and U.S. Courthouse, 401 Market Street, 4th Floor, Camden, NJ 08101, and at EPA, Region 2, 290 Broadway, New York, New York 10007-1866. During the public comment period, the proposed Consent Decree may also be examined at the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax number (202) 514-0097, phone confirmation number (202) 514-1547. If requesting a copy by mail from the Consent Decree Library, please enclose a check to cover the 25 cents-per-page reproduction cost, in the amount of \$70.00 for the Consent

Decree with appendices or \$12.00 without appendices, payable to the U.S. Treasury, or if requesting by e-mail or fax, forward a check in that amount to the Consent Decree Library at the above-referenced address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010-25419 Filed 10-7-10; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

#### Proposed Collection, Comment Request

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Labor published a document in the **Federal Register** of October 4, 2010, concerning a request for comments on the proposed revision of the National Compensation Survey (1220-0164). The document contained an incorrect date for submission of comments.

**FOR FURTHER INFORMATION CONTACT:** Nora Kincaid, BLS Clearance Officer, at 202-691-7628 (this is not a toll free number). (See **ADDRESSES** section.)

#### Correction

In the **Federal Register** of October 4, 2010, 75 FR 61178, in the second column, correct the **DATES** caption to read:

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before December 3, 2010.

Signed at Washington, DC, this 5th day of October 2010.

**Kimberly Hill,**

*Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 2010-25404 Filed 10-7-10; 8:45 am]

**BILLING CODE 4510-24-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-72,855]

#### Barnstead Thermolyne Corporation, a Subsidiary of Thermo Fisher Scientific, Including On-Site Leased Workers From Sedona Staffing and Per Mar, Dubuque, 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 February 22, 2010, applicable to workers of Barnstead Thermolyne Corporation, a subsidiary of Thermo Fisher Scientific, including on-site leased workers from Sedona Staffing, Dubuque, Iowa. The notice was published in the **Federal Register** on April 23, 2010 (75 FR 21361).

At the request of a State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of scientific laboratory equipment.

New information shows that workers leased from Per Mar were employed on-site at the Dubuque, Iowa location of Barnstead Thermolyne Corporation, a subsidiary of Thermo Fisher Scientific. 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 Per Mar working on-site at the Dubuque, Iowa location of Barnstead Thermolyne Corporation, a subsidiary of Thermo Fisher Scientific.

The amended notice applicable to TA-W-72,855 is hereby issued as follows:

All workers of Barnstead Thermolyne Corporation, including on-site leased workers from Sedona Staffing and Per Mar, Dubuque, Iowa, who became totally or partially separated from employment on or after November 11, 2008, through February 22, 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 16th day of September 2010.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 2010-25398 Filed 10-7-10; 8:45 am]

BILLING CODE 4510-FN-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-72,519]

**EDS, an HP Company (Re-Branded as HP—Enterprise Services) Including On-Site Workers From: Abel Personnel Inc., Advantage Tech Inc., Aerotek, Allied Network Solutions Inc., Analysts International Corp., AppleOne, Assist Cornerstone Technologies, Banctec Inc., Bucher and Christian Consulting Inc., Ciber Inc., Compucom Systems Compuware Corp Comsys Information Technology SVC, Diversified Systems Inc., E-Corn LLC, Farrington Associates Inc., Kelly Services Inc., Logica North America Inc., Manpower Inc. Clerical, Manpower Inc.—Technical, Microsoft Corp, Ntelicor, OAO Technology Solutions Inc., Optimum Technology, Oracle USA Inc., Pinnacle Technical Resources Inc., Professional Data Dimensions, Randstad Staffing Services, S2tech, Sethi Business Group, Smartit Staffing Inc., Spherion Corporation, Superior Staffing Services Inc., Tata America International Corp, Tech Providers Inc., Technology Solutions Provider Inc., Teksystems, The Experts Inc., TM Floyd and Company, Trinity Government SYS a Private Co, Verizon Network Integration Corp, Vision Information Technologies Inc., Volt Services Group, and Wipro Ltd, and Including Virtual Workers Across the United States, Plano, 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 February 4, 2010, applicable to workers of EDS, an HP Company (Re-branded as HP—Enterprise Services) Plano, Texas, including on-site leased workers listed above. The notice was published in the **Federal Register** on March 12, 2010 (75 FR 11924).

At the request of a company official, the Department reviewed the certification for workers of the subject

firm. The workers are engaged in activities related to information technology (IT) services.

New information shows that worker separations have occurred involving virtual employees across the United States under the control of the Plano, Texas location of EDS, an HP Company (Re-branded as HP—Enterprise Services). These employees provided various activities related to the supply of information technology (IT) services.

Based on these findings, the Department is amending this certification to include virtual employees of the Plano, Texas facility of the subject firm working off-site across the United States.

The intent of the Department’s certification is to include all workers of the subject firm who were adversely affected by a shift in information technology (IT) services to India, Brazil and Argentina.

The amended notice applicable to TA-W-72,519 is hereby issued as follows:

All workers of EDS, an HP Company (re-branded as HP—Enterprise Services), Plano, Texas, including on-site leased workers from Abel Personnel Inc., Advantage Tech Inc., Aerotek, Allied Network Solutions Inc., Analysts International Corp., AppleOne, Assist Cornerstone Technologies, Banctec Inc., Bucher and Christian Consulting Inc., Ciber Inc., Compucom Systems Compuware Corp Comsys Information Technology SVC, Diversified Systems Inc., E-Corn LLC, Farrington Associates Inc., Kelly Services Inc., Logica North America Inc., Manpower Inc. Clerical, Manpower Inc.—Technical, Microsoft Corp, Ntelicor, OAO Technology Solutions Inc., Optimum Technology, Oracle USA Inc., Pinnacle Technical Resources Inc., Professional Data Dimensions, Randstad Staffing Services, S2tech, Sethi Business Group, Smartit Staffing Inc., Spherion Corporation, Superior Staffing Services Inc., Tata America International Corp, Tech Providers Inc., Technology Solutions Provider Inc., Teksystems, The Experts Inc., TM Floyd and Company, Trinity Government SYS a Private Co, Verizon Network Integration Corp., Vision Information Technologies Inc., Volt Services Group, and Wipro Ltd, and including virtual workers across the United States reporting to Plano, Texas, who became totally or partially separated from employment on or after October 5, 2008, through February 4, 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 in Washington, DC, this 29th day of September 2010.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 2010-25402 Filed 10-7-10; 8:45 am]

BILLING CODE 4510-FN-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-72,748]

**New United Motor Manufacturing, Inc. Formerly a Joint Venture of General Motors Corporation and Toyota Motor Corporation Including On-Site Leased Workers From Corestaff, ABM Janitorial, Toyota Engineering and Manufacturing North America, NPA Coatings, Inc., Premier Manufacturing and MacLellan Integrated Services, Inc. and On-Site Workers From Dupont Performance Coatings, Fremont, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on November 19, 2009, applicable to workers of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation, including on-site leased workers from Corestaff, Fremont, California. The notice was published in the **Federal Register** on January 25, 2010 (75 FR 3938). The notice was amended on April 27, 2010, May 11, 2010, June 24, 2010 and July 26, 2010 to include on-site leased workers. The notices were published in the **Federal Register** on May 12, 2010 (75 FR 26794) May 21, 2010 (75 FR 28656–28657), July 7, 2010 (75 FR 39045–39046) and August 6, 2010 (75 FR 47632), respectively.

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers assemble the Toyota Corolla and the Toyota Tacoma and used to assemble the Pontiac Vibe.

Information shows that workers leased from MacLellan Integrated Services, Inc. were employed on-site at the Fremont, California location of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation. The Department has determined that these workers were sufficiently under the control of New

United Motor Manufacturing, Inc. to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from MacLellan Integrated Services working on-site at the Fremont, California location of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation.

The amended notice applicable to TA-W-72,748 is hereby issued as follows:

All workers of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation, including on-site leased workers from Corestaff, ABM Janitorial, Toyota Engineering and Manufacturing North America, NPA Coatings, Inc., Premier Manufacturing and MacLellan Integrated Services, Inc.; and also on-site workers from DuPont Performance Coatings, Fremont, California, who became totally or partially separated from employment on or after October 29, 2008, through November 19, 2011, 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 in Washington, DC, this 29th day of September 2010.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 2010-25403 Filed 10-7-10; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA-W) number issued during the period of September 20, 2010 through September 24, 2010.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of

the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));  
 (2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

**Affirmative Determinations For Worker Adjustment Assistance**

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
73,126	Freescale Semiconductor, Inc., (FSL), Cellular Products Group (CPG), Cellular Products Division (CPD).	Austin, TX	December 11, 2008.
73,763	Leed Foundry, Inc.	Saint Clair, PA	March 19, 2009.
74,082	Alcoa, Inc. (, Alcoa Forgings and Extrusions Business, Leased Workers IQnavigator, etc.	Lafayette, IN	May 11, 2009.
74,239	Hanesbrands, Inc., Leased Workers from Security Group	Advance, NC	May 31, 2009.
74,594	Danfoss Chatloff, LLC, Danfoss A/S, Leased Workers from Hawkins Personnel Group and Aerotek.	Buda, TX	September 2, 2009.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or

services) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
73,698	Holloway Sportswear, Inc., Leased Workers from Staffmark, Inc.	Jackson Center, OH	March 1, 2009.
73,943	Core 3, Inc., Profitkeeper	Mesa, AZ	April 14, 2009.
73,947	Hewlett Packard Company, Enterprise Business Division, Leased Workers MW2 & ISI, Teleworkers, etc.	Palo Alto, CA	April 14, 2009.
74,016	Service Stamping and Threading, A Mid-Park Company	Leitchfield, KY	April 22, 2009.
74,345	Medtronic Spine, LLC, Medtronic World Headquarters, Operations and Quality Control.	Sunnyvale, CA	July 1, 2009.
74,459	The Sun News, Advertising Design Division	Myrtle Beach, SC	July 28, 2009.
74,481	Diversey, Inc., Account Payable, etc., Leased Workers Accountemps, Adecco, Aerotek, etc.	Sturtevant, WI	August 4, 2009.
74,493	Accenture, LLC, Debit Tower Division	Wilmington, DE	July 26, 2009.
74,526	Georgia-Pacific Wood Products LLC, Georgia-Pacific LLC, Wood and Fiber Supply Organization.	Mount Hope, WV	August 13, 2009.
74,562	Nextrx, Inc., Express Scripts, Inc., Leased Workers from Kelly Services	Plano, TX	August 24, 2009.
74,570	Vanity Fair Brands, LP, Fruit of the Loom, Distribution Center #2	Monroeville, AL	August 24, 2009.
74,577	MedRisk, Inc., Leased Workers Express Employment Professionals, Contemporary Staffing, etc.	King of Prussia, PA	August 27, 2009.
74,586	Burton Snowboards Company, Burton Manufacturing Center Division	Burlington, VT	August 24, 2009.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers

are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
74,009	Akzo Nobel Coatings, Inc., Powder Coatings Division	Brecksville, OH	April 22, 2009.

**Negative Determinations for Worker Adjustment Assistance**

In the following cases, the investigation revealed that the eligibility

criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or

(b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA-W No.	Subject firm	Location	Impact date
73,983	Apria Healthcare, Billing and Collections Division	Redmond, WA	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA-W No.	Subject firm	Location	Impact date
73,050 .....	United Southern Industries, Inc .....	Forest City, NC .....	
73,269 .....	Grand Manor Furniture, Leased Workers Accuforce Staffing, ONIN Staffing, The People Connection, etc.	Lenoir, NC .....	
73,588 .....	AGC Chemicals America, Inc., Asahi Glass Company .....	Thorndale, PA .....	
74,294 .....	Travel Adventures, Inc .....	Lapeer, MI .....	
74,549 .....	Algonac Cast Products, Inc .....	Algonac, MI .....	

### Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and

on the Department's Web site, as required by Section 221 of the Act (19 USC 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA-W No.	Subject firm	Location	Impact date
74,062 .....	EPSP Management Services .....	Burbank, CA .....	
74,430 .....	Tasman Hartford, LLC .....	Hartford, WI .....	

I hereby certify that the aforementioned determinations were issued during the period of September 20, 2010 through September 24, 2010. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or [tofiarequest@dol.gov](mailto:tofiarequest@dol.gov). These determinations also are available on the Department's Web site at <http://www.doleta.gov/tradeact> under the searchable listing of determinations.

Dated: October 1, 2010.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 2010-25401 Filed 10-7-10; 8:45 am]

**BILLING CODE 4510-FN-P**

### DEPARTMENT OF LABOR

#### Employment and Training Administration

#### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 18, 2010.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 18, 2010.

Copies of these petitions may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail, to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or to [foiarequest@dol.gov](mailto:foiarequest@dol.gov).

Signed at Washington, DC, this 30th of September 2010.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

### APPENDIX

[TAA petitions instituted between 9/20/10 and 9/24/10]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74638 .....	Western Refining, Yorktown, Inc. (Company) .....	Grafton, VA .....	09/20/10	09/10/10
74639 .....	Intellectual Ventures (State/One-Stop) .....	Bellevue, WA .....	09/20/10	09/13/10
74640 .....	Citigroup Management Corporation (State/One-Stop) .....	Irving, TX .....	09/20/10	09/17/10
74641 .....	Citigroup/Citicorp (State/One-Stop) .....	Irving, TX .....	09/20/10	09/17/10
74642 .....	Covidien (Company) .....	Watertown, NY .....	09/20/10	09/16/10
74643 .....	Disetronic Sterile Products, Inc. (Company) .....	Portsmouth, NH .....	09/20/10	09/16/10
74644 .....	DORMA Door Controls, Inc. (Company) .....	Reamstown, PA .....	09/20/10	09/16/10
74645 .....	Panasonic, Inc. (State/One-Stop) .....	Mount Laurel, NJ .....	09/20/10	09/17/10

APPENDIX—Continued

[TAA petitions instituted between 9/20/10 and 9/24/10]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74646	American Municipal Power (AMP) (State/One-Stop)	Marietta, OH	09/20/10	09/16/10
74647	Encore Marketing International (Workers)	Blue Ridge Summit, PA	09/20/10	09/16/10
74648	Bosch Packaging Technology, Inc. (Workers)	New Richmond, WI	09/20/10	09/16/10
74649	DST Systems, Inc. (Workers)	Kansas City, MO	09/22/10	09/21/10
74650	Probuild Holdings (State/One-Stop)	Cherry Hill, NJ	09/22/10	09/22/10
74651	Assurant Health (State/One-Stop)	Plymouth, MN	09/22/10	09/21/10
74652	Gentry Mills, Inc. (Company)	Albemarle, NC	09/22/10	09/10/10
74653	Wellpoint/Unicare/Anthem (Workers)	Plano, TX	09/22/10	08/13/10
74654	Plainfield Precision—Texas (Workers)	El Paso, TX	09/22/10	09/02/10
74655	Temp Depot (State/One-Stop)	Vernon, CA	09/22/10	09/20/10
74656	Providence Washington Insurance Solutions (Workers)	Riverside, RI	09/22/10	09/14/10
74657	STMicroelectronics, Inc. (Company)	Phoenix, AZ	09/22/10	09/15/10
74658	Broadview Networks (Workers)	Quincy, MA	09/24/10	09/21/10
74659	Contact Industries (State/One-Stop)	Prineville, OR	09/24/10	09/21/10
74660	Glazers Midwest (State/One-Stop)	Springfield, MO	09/24/10	09/21/10
74661	WellPoint, Inc. (Company)	Indianapolis, IN	09/24/10	09/22/10
74662	Hewlett Packard (Company)	Los Angeles, CA	09/24/10	09/15/10
74663	Stanley Black and Decker (Company)	Jackson, TN	09/24/10	09/23/10
74664	Ryerson Steel (Workers)	Chicago, IL	09/24/10	09/23/10
74665	Aegon USA (Workers)	Chattanooga, TN	09/24/10	09/20/10

[FR Doc. 2010-25400 Filed 10-7-10; 8:45 am]

BILLING CODE 4510-FN-P

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (“the Act”) and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has

instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 18, 2010.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 18, 2010.

Copies of these petitions may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail, to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or to [foiarequest@dol.gov](mailto:foiarequest@dol.gov).

Signed at Washington, DC, this 23rd day of September 2010.

**Elliott S. Kushner**

*Certifying Officer, Division of Trade Adjustment Assistance.*

APPENDIX

[TAA petitions instituted between 9/13/10 and 9/17/10]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74617	Tekni-Plex Colorite Swan, (Company)	Bucyrus, OH	09/13/10	09/02/10
74618	Young's Furniture Manufacturing Company, Inc., (Company).	Whitesburg, TN	09/13/10	09/09/10
74619	Sematic USA, Inc., (Workers)	Twinsburg, OH	09/13/10	08/16/10
74620	AMB Property, L.P., (Company)	Boston, MA	09/13/10	09/10/10
74621	Burgess-Norton Manufacturing Company, (Workers)	Claremore, OK	09/13/10	09/10/10
74622	Southwest AMT, Inc., (Workers)	McAllen, TX	09/13/10	09/01/10
74623	Frost Controls, Inc., (Company)	Smithfield, RI	09/13/10	09/11/10
74624	Chart Industries, Inc., (State/One-Stop)	Denver, CO	09/13/10	09/10/10
74625	Duro Bag Manufacturing Company, (Company)	Hudson, WI	09/15/10	09/13/10
74626	Levolor Kirsch Window Fashions, (Workers)	Athens, GA	09/15/10	09/13/10
74627	World Wide Technology, Inc., (Workers)	Greensboro, NC	09/15/10	09/13/10
74628	Di-Pro, Inc., (Company)	Fresno, CA	09/15/10	09/09/10
74629	West Medical Management, (Workers)	Redlands, CA	09/15/10	08/30/10
74630	Federal Mogul Corporation, (Company)	Boyertown, PA	09/15/10	09/13/10
74631	General Motors Components Holdings, LLC, (Union)	Lockport, NY	09/15/10	09/13/10

## APPENDIX—Continued

[TAA petitions instituted between 9/13/10 and 9/17/10]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74632	Valspar, (Company)	High Point, NC	09/17/10	09/16/10
74633	Aveda Corporation, (State/One-Stop)	Blaine, MN	09/17/10	09/15/10
74634	A. H. Schreiber Company, (Company)	Bristol, TN	09/17/10	09/09/10
74635	Wachovia, (Workers)	Wilkesboro, NC	09/17/10	09/02/10
74636	Deluxe Laboratories, (State/One-Stop)	Hollywood, CA	09/17/10	09/15/10
74637	Parker Hosiery Company, Inc., (Company)	Old Fort, NC	09/17/10	09/15/10

[FR Doc. 2010-25399 Filed 10-7-10; 8:45 am]

BILLING CODE 4510-FN-P

**LEGAL SERVICES CORPORATION****Notice of Intent to Award—Grant Awards for the Provision of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2011****AGENCY:** Legal Services Corporation.**ACTION:** Announcement of intention to make FY 2011 Competitive Grant Awards.

**SUMMARY:** The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning January 1, 2011.

**DATES:** All comments and recommendations must be received on or before the close of business on November 8, 2010.

**ADDRESSES:** Legal Services Corporation—Competitive Grants, Legal Services Corporation; 3333 K Street,

NW., Third Floor, Washington, DC 20007.

**FOR FURTHER INFORMATION CONTACT:**

Reginald Haley, Office of Program Performance, at (202) 295-1545, or [haley@lsc.gov](mailto:haley@lsc.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to LSC's announcement of funding availability on March 17, 2010 (75 FR 12802), and Grant Renewal applications due on June 7, 2010, LSC intends to award funds to the following organizations to provide civil legal services in the indicated service areas. Amounts are subject to change.

Service area	Applicant name	Estimated annualized funding amount
Alabama:		
AL-4	Legal Services Alabama	\$7,396,581
MAL	Texas RioGrande Legal Aid	37,880
Alaska:		
NAK-1	Alaska Legal Services Corporation	623,109
AK-1	Alaska Legal Services Corporation	856,284
American Samoa:		
AS-1	American Samoa Legal Aid	370,020
Arizona:		
MAZ	Community Legal Services	170,937
AZ-3	Community Legal Services	4,485,062
NAZ-6	Southern Arizona Legal Aid	734,407
AZ-5	Southern Arizona Legal Aid	2,163,181
AZ-2	DNA—Peoples Legal Services	621,373
NAZ-5	DNA—Peoples Legal Services	3,006,529
Arkansas:		
AR-6	Legal Aid of Arkansas	1,722,713
AR-7	Center for Arkansas Legal Services	2,571,551
MAR	Texas RioGrande Legal Aid	91,000
California:		
NCA-1	California Indian Legal Services	1,017,926
CA-1	California Indian Legal Services	39,115
CA-2	Greater Bakersfield Legal Assistance	1,086,698
CA-26	Central California Legal Services	3,399,846
CA-29	Legal Aid Foundation of Los Angeles	9,389,794
CA-30	Neighborhood Legal Services of Los Angeles County	5,546,467
CA-12	Inland Counties Legal Services	4,828,427
CA-27	Legal Services of Northern California	4,201,048
CA-14	Legal Aid Society of San Diego	3,376,449
CA-31	California Rural Legal Assistance	5,542,782
MCA	California Rural Legal Assistance	3,039,282
CA-28	Bay Area Legal Aid	4,952,559
CA-19	Legal Aid Society of Orange County	4,715,989
Colorado:		
NCO-1	Colorado Legal Services	110,649
CO-6	Colorado Legal Services	3,971,198
MCO	Colorado Legal Services	170,990
Connecticut:		
CT-1	Statewide Legal Services of Connecticut	2,744,544

Service area	Applicant name	Estimated annualized funding amount
NCT-1	Pine Tree Legal Assistance	18,037
District of Columbia:		
DC-1	Neighborhood Legal Services Program of D.C.	1,166,129
Delaware:		
DE-1	Legal Services Corporation of Delaware	715,835
MDE	Legal Aid Bureau	28,584
Florida:		
FL-15	Community Legal Services of Mid-Florida	3,568,536
MFL	Florida Rural Legal Services	1,034,003
FL-17	Florida Rural Legal Services	3,187,716
FL-5	Legal Services of Greater Miami	4,087,534
FL-13	Legal Services of North Florida	1,678,421
FL-16	Bay Area Legal Services	3,027,918
FL-14	Three Rivers Legal Services	2,067,313
FL-18	Coast to Coast Legal Aid of South Florida	2,143,298
Georgia:		
GA-1	Atlanta Legal Aid Society	2,981,561
GA-2	Georgia Legal Services Program	7,576,538
MGA	Georgia Legal Services Program	451,395
Guam:		
GU-1	Guam Legal Services Corporation	370,521
Hawaii:		
NHI-1	Legal Aid Society of Hawaii	263,923
HI-1	Legal Aid Society of Hawaii	1,602,118
Idaho:		
ID-1	Idaho Legal Aid Services	1,368,742
NID-1	Idaho Legal Aid Services	74,854
MID	Idaho Legal Aid Services	215,197
Illinois:		
IL-6	Legal Assistance Foundation of Metropolitan Chicago	7,439,083
MIL	Legal Assistance Foundation of Metropolitan Chicago	287,402
IL-3	Land of Lincoln Legal Assistance Foundation	2,849,847
IL-7	Prairie State Legal Services	3,182,519
Indiana:		
IN-5	Indiana Legal Services	5,827,382
MIN	Indiana Legal Services	130,905
Iowa:		
IA-3	Iowa Legal Aid	2,704,246
MIA	Iowa Legal Aid	43,439
Kansas:		
KS-1	Kansas Legal Services	2,732,094
MKS	Kansas Legal Services	13,685
Kentucky:		
KY-10	Legal Aid of the Bluegrass	1,461,499
KY-2	Legal Aid Society	1,356,601
KY-5	Appalachian Research and Defense Fund of Kentucky	2,341,050
KY-9	Kentucky Legal Aid	1,406,281
MKY	Texas RioGrande Legal Aid	48,998
Louisiana:		
LA-1	Capital Area Legal Services Corporation	1,631,574
LA-10	Acadiana Legal Service Corporation	2,311,062
LA-11	Legal Services of North Louisiana	2,168,346
LA-12	Southeast Louisiana Legal Services Corporation	2,921,338
MLA	Texas RioGrande Legal Aid	31,705
Maine:		
MMX-1	Pine Tree Legal Assistance	143,791
ME-1	Pine Tree Legal Assistance	1,360,392
NME-1	Pine Tree Legal Assistance	74,262
Maryland:		
MMD	Legal Aid Bureau	104,676
MD-1	Legal Aid Bureau	4,567,053
Massachusetts:		
MA-11	Volunteer Lawyers Project of the Boston Bar Association	2,344,438
MA-12	New Center for Legal Advocacy	1,050,861
MA-4	Merrimack Valley Legal Services	955,525
MA-10	Massachusetts Justice Project	1,736,728
Michigan:		
MI-12	Legal Services of South Central Michigan	1,470,999
MMI	Legal Services of South Central Michigan	693,023
MI-14	Legal Services of Eastern Michigan	1,577,580
MI-9	Legal Services of Northern Michigan	812,959
MI-15	Legal Aid of Western Michigan	1,919,667

Service area	Applicant name	Estimated annualized funding amount
MI-13	Legal Aid and Defender Association	4,405,468
NMI-1	Michigan Indian Legal Services	189,666
Minnesota:		
MN-1	Legal Aid Service of Northeastern Minnesota	481,139
MN-6	Central Minnesota Legal Services	1,507,815
MN-4	Legal Services of Northwest Minnesota Corporation	431,224
MN-5	Southern Minnesota Regional Legal Services	1,401,393
MMN	Southern Minnesota Regional Legal Services	230,351
NMN-1	Anishinabe Legal Services	275,346
Micronesia:		
MP-1	Micronesian Legal Services	1,899,007
Mississippi:		
MS-9	North Mississippi Rural Legal Services	2,310,412
MS-10	Mississippi Center for Legal Services	3,460,708
NMS-1	Choctaw Legal Defense	95,776
MMS	Texas RioGrande Legal Aid	65,708
Missouri:		
MO-3	Legal Aid of Western Missouri	2,044,501
MMO	Legal Aid of Western Missouri	93,790
MO-4	Legal Services of Eastern Missouri	2,257,217
MO-5	Mid-Missouri Legal Services Corporation	449,967
MO-7	Legal Services of Southern Missouri	1,947,814
Montana:		
MT-1	Montana Legal Services Association	1,304,088
NMT-1	Montana Legal Services Association	183,456
MMT	Montana Legal Services Association	62,842
Nebraska:		
NNE-1	Legal Aid of Nebraska	38,085
NE-4	Legal Aid of Nebraska	1,668,772
MNE	Legal Aid of Nebraska	48,679
Nevada:		
NV-1	Nevada Legal Services	2,187,569
NNV-1	Nevada Legal Services	153,209
MNV	Nevada Legal Services	2,897
New Hampshire:		
NH-1	Legal Advice & Referral Center	824,865
New Jersey:		
NJ-15	Legal Services of Northwest Jersey	452,290
MNJ	South Jersey Legal Services	138,925
NJ-16	South Jersey Legal Services	1,539,721
NJ-18	Northeast New Jersey Legal Services Corporation	2,045,247
NJ-8	Essex-Newark Legal Services Project	1,251,617
NJ-12	Ocean-Monmouth Legal Services	766,612
NJ-17	Central Jersey Legal Services	1,256,783
New Mexico:		
NM-1	DNA-Peoples Legal Services	249,914
NNM-2	DNA-Peoples Legal Services	26,175
NM-5	New Mexico Legal Aid	3,152,541
MNM	New Mexico Legal Aid	100,554
NNM-4	New Mexico Legal Aid	535,341
New York:		
NY-21	Legal Aid Society of Northeastern New York	1,547,165
NY-24	Neighborhood Legal Services	1,547,996
NY-7	Nassau/Suffolk Law Services Committee	1,601,446
NY-9	Legal Services NYC	17,579,717
NY-23	Legal Assistance of Western New York	1,987,963
MNY	Legal Aid Society of Mid-New York	318,690
NY-22	Legal Aid Society of Mid-New York	2,027,963
NY-20	Legal Services of the Hudson Valley	2,059,965
North Carolina:		
MNC	Legal Aid of North Carolina	617,060
NNC-1	Legal Aid of North Carolina	251,456
NC-5	Legal Aid of North Carolina	9,592,371
North Dakota:		
MND	Southern Minnesota Regional Legal Services	133,450
NND-3	Legal Services of North Dakota	310,361
ND-3	Legal Services of North Dakota	648,839
Ohio:		
OH-20	Community Legal Aid Services	1,918,634
OH-18	Legal Aid Society of Greater Cincinnati	1,658,304
OH-21	The Legal Aid Society of Cleveland	2,441,094
OH-5	Ohio State Legal Services	1,468,039

Service area	Applicant name	Estimated annualized funding amount
OH-17 .....	Ohio State Legal Services .....	1,966,419
OH-23 .....	Legal Aid of Western Ohio .....	2,869,964
MOH .....	Legal Aid of Western Ohio .....	145,026
Oklahoma:		
NOK-1 .....	Oklahoma Indian Legal Services .....	943,382
OK-3 .....	Legal Aid Services of Oklahoma .....	5,159,418
MOK .....	Legal Aid Services of Oklahoma .....	72,045
Oregon:		
OR-6 .....	Legal Aid Services of Oregon .....	3,498,610
NOR-1 .....	Legal Aid Services of Oregon .....	212,690
MOR .....	Legal Aid Services of Oregon .....	641,319
Pennsylvania:		
MPA .....	Philadelphia Legal Assistance Center .....	190,820
PA-1 .....	Philadelphia Legal Assistance Center .....	3,533,573
PA-5 .....	Laurel Legal Services .....	877,890
PA-25 .....	MidPenn Legal Services .....	2,532,179
PA-8 .....	Neighborhood Legal Services Association .....	1,913,586
PA-24 .....	North Penn Legal Services .....	2,069,816
PA-11 .....	Southwestern Pennsylvania Legal Services .....	637,805
PA-26 .....	Northwestern Legal Services .....	835,164
PA-23 .....	Legal Aid of Southeastern Pennsylvania .....	1,297,506
Puerto Rico:		
MPR .....	Puerto Rico Legal Services .....	334,739
PR-1 .....	Puerto Rico Legal Services .....	18,638,972
PR-2 .....	Community Law Office .....	394,600
Rhode Island:		
RI-1 .....	Rhode Island Legal Services .....	1,281,756
South Carolina:		
SC-8 .....	South Carolina Legal Services .....	5,606,861
MSC .....	South Carolina Legal Services .....	227,731
South Dakota:		
SD-2 .....	East River Legal Services .....	465,303
MSD .....	Dakota Plains Legal Services .....	4,569
SD-4 .....	Dakota Plains Legal Services .....	551,426
NSD-1 .....	Dakota Plains Legal Services .....	1,075,779
Tennessee:		
TN-9 .....	Legal Aid of East Tennessee .....	2,500,113
TN-4 .....	Memphis Area Legal Services .....	1,636,706
TN-10 .....	Legal Aid Services of Middle Tennessee and the Cumberlandds .....	2,979,591
TN-7 .....	West Tennessee Legal Services .....	763,577
MTN .....	Texas RioGrande Legal Aid .....	73,025
Texas:		
TX-14 .....	Legal Aid of NorthWest Texas .....	8,712,148
TX-13 .....	Lone Star Legal Aid .....	11,042,283
MTX .....	Texas RioGrande Legal Aid .....	1,599,231
NTX-1 .....	Texas RioGrande Legal Aid .....	36,060
TX-15 .....	Texas RioGrande Legal Aid .....	11,847,660
Utah:		
UT-1 .....	Utah Legal Services .....	2,119,219
NUT-1 .....	Utah Legal Services .....	94,790
MUT .....	Utah Legal Services .....	78,093
Vermont:		
VT-1 .....	Legal Services Law Line of Vermont .....	581,788
Virgin Islands:		
VI-1 .....	Legal Services of the Virgin Islands .....	372,001
Virginia:		
VA-15 .....	Southwest Virginia Legal Aid Society .....	944,727
VA-16 .....	Legal Aid Society of Eastern Virginia .....	1,632,053
MVA .....	Central Virginia Legal Aid Society .....	181,586
VA-18 .....	Central Virginia Legal Aid Society .....	1,159,370
VA-17 .....	Virginia Legal Aid Society .....	983,439
VA-19 .....	Blue Ridge Legal Services .....	818,008
VA-20 .....	Legal Services of Northern Virginia .....	1,273,789
Washington:		
WA-1 .....	Northwest Justice Project .....	5,681,131
NWA-1 .....	Northwest Justice Project .....	328,215
MWA .....	Northwest Justice Project .....	840,371
West Virginia:		
MWV .....	Legal Aid of West Virginia .....	42,087
WV-5 .....	Legal Aid of West Virginia .....	3,320,996
Wisconsin:		
MWI .....	Legal Action of Wisconsin .....	104,824

Service area	Applicant name	Estimated annualized funding amount
WI-5 .....	Legal Action of Wisconsin .....	3,689,622
NWI-1 .....	Wisconsin Judicare .....	178,726
WI-2 .....	Wisconsin Judicare .....	1,014,258
Wyoming:		
MWY .....	Legal Aid of Wyoming .....	14,324
NWY-1 .....	Legal Aid of Wyoming .....	199,098
WY-4 .....	Legal Aid of Wyoming .....	569,030

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(a)(1)). Awards will be made so that each service area is served, although none of the listed organizations are guaranteed an award or contract. This public notice is issued pursuant to the LSC Act (42 U.S.C. 2996f(f)), with a request for comments and recommendations concerning the potential grantees within a period of thirty (30) days from the date of publication of this notice. Grants will become effective and grant funds will be distributed on or about January 1, 2011.

Dated: September 29, 2010.

**Janet LaBella,**

*Director, Office of Program Performance,  
Legal Services Corporation.*

[FR Doc. 2010-25245 Filed 10-7-10; 8:45 am]

BILLING CODE 7050-01-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (10-122)]

### Notice of Information Collection

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted within 60 calendar days from the date of this publication.

**ADDRESSES:** All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546-0001.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or

copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA PRA Officer, NASA Headquarters, 300 E Street, SW., JF0000, Washington, DC 20546, (202) 358-1351, [Lori.Parker@nasa.gov](mailto:Lori.Parker@nasa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Abstract

The KEEP is a job shadowing program intended to provide students with career exploration under the mentorship of a Kennedy Space Center (KSC) NASA of contractor employee. Participation in the program is limited to students who are U.S. citizens, 16 years or older, who have been recommended by a teacher, guidance counselor, or other school official. Students may shadow for 1 day or up to 1 week.

#### II. Method of Collection

The collection of information will be made by the use of a Web-based on-line application system and a database of applicant information will be developed. We believe this is the most efficient and cost effective way to collect the information.

#### III. Data

*Title:* Kennedy Educational Experiences program (KEEP).

*OMB Number:* 2700-0135.

*Type of Review:* Extension, without change, of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 20.

*Estimated Total Annual Burden Hours:* 20.

*Estimated Total Annual Cost to Government:* \$0.

#### IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the

proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**Lori Parker,**

*NASA PRA Clearance Officer.*

[FR Doc. 2010-25446 Filed 10-7-10; 8:45 am]

BILLING CODE P

## NATIONAL SCIENCE FOUNDATION

### Notice of Public Hearings and the Availability of a Draft Programmatic Environmental Impact Statement/ Overseas Environmental Impact Statement (PEIS/OEIS)

**AGENCY:** National Science Foundation.

**ACTION:** Notice of public hearings and request for public comments on a Draft PEIS/OEIS for Marine Seismic Research Funded by the National Science Foundation (NSF) or Conducted by the U.S. Geological Survey (USGS).

**SUMMARY:** NSF gives notice of the availability of a Draft PEIS/OEIS (hereafter Draft PEIS) for marine seismic research funded by NSF or conducted by the USGS and requests public review and comment on the document. NSF also provides notice of public hearings on the Draft PEIS.

The Division of Ocean Sciences in the Directorate for Geosciences (GEO/OCE) has prepared the Draft PEIS as the lead agency with support from the cooperating agencies, USGS and the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA).

The Draft PEIS assesses the potential impacts of marine seismic research on the human and natural environment. Under the Proposed Action, a variety of

acoustic sources used for research activities funded by NSF or conducted by the USGS would be operated from various research vessels operated by U.S. academic institutions or government agencies. The seismic acoustic sources would include various airgun configurations (particularly strings or arrays with as little as 2 to as many as 36 seismic airguns), as well as low-energy seismic and non-seismic acoustic sources.

The Draft PEIS examines the potential impacts that may result from geophysical exploration and scientific research using seismic surveys that are funded by NSF or conducted by the USGS in non-Arctic waters. The Proposed Action is for academic and U.S. government scientists in the U.S., and possible international collaborators, to conduct marine seismic research from research vessels operated by U.S. academic institutions and government agencies. The purpose of the Proposed Action is to fund the investigation of the geology and geophysics of the seafloor by collecting seismic reflection and refraction data that reveal the structure and stratigraphy of the crust and/or overlying sediment below the world's oceans. NSF has a continuing need to fund seismic surveys that enable scientists to collect data essential to understanding the complex Earth processes beneath the ocean floor.

Two action alternatives and the No-Action Alternative have been carried forward for analysis. The Draft PEIS is available for public review for a 45-day period. Comments must be submitted on or before November 22, 2010.

NSF will conduct two public hearings to receive oral and written comments on the Draft PEIS. Federal, state, and local agencies and interested individuals are invited to be present or represented at the public hearings. This notice announces the dates and locations of the public hearings for this Draft PEIS.

An open house session will precede the scheduled public hearing at each of the locations listed below and will allow individuals to review the information presented in the Draft PEIS. NSF and USGS representatives will be available during the open house sessions to clarify information related to the Draft PEIS.

*Dates & Addresses:* All hearings will start with an open house session, followed by a presentation, and then the formal oral public comment period. Public hearings will be held on the following dates and at the following locations:

- Monday, October 25, 2010, 5–7 p.m. at Scripps Institution of Oceanography, University California-San Diego,

Vaughn Hall, Room 100, Discovery Way, La Jolla, CA.

- Wednesday, October 27, 2010, 5–7 p.m. at the National Science Foundation, 4201 Wilson Blvd., Room 110, Arlington, VA.

The Draft PEIS is available on NSF's Web site at: <http://www.nsf.gov/geo/occe/envcomp/index.jsp>. Electronic or printed copies of the Draft PEIS are also available upon request from: Holly Smith, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Suite 725, Arlington, VA 22230. Telephone: (703) 292-8583. E-mail: [nepacomments@nsf.gov](mailto:nepacomments@nsf.gov).

**SUPPLEMENTARY INFORMATION:** Currently, individual Environmental Assessments (EAs) are prepared for individual or small numbers of related cruises to assess the impact of the generated seismic survey noise on the marine environment. In the 7 years from 2003 through 2009, NSF prepared 31 EAs assessing the impact of sound from seismic surveys on marine resources and species listed under the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) during research projects investigating the geology and geophysics of the seafloor. These EAs were prepared for various worldwide, academic research cruises that required the use of various marine seismic sources involving different airgun configurations deployed from the primary U.S. academic seismic survey ship, or smaller airgun sources deployed from other research vessels, often with concurrent operations of non-seismic acoustic sources such as echosounders and bottom profilers.

For past seismic research cruise actions, an EA has been used as the basis for consultation with the NOAA Office of Protected Resources (OPR) under section 7(a)(2) of the ESA. For each of the research cruises, NOAA OPR issued a Biological Opinion (BO) and related Incidental Take Statements (ITSs), which included terms and conditions to reduce impacts on threatened and endangered species. In parallel with this effort, when applicable, a separate application for an Incidental Harassment Authorization (IHA) under Section 101(a)(5)(D) of the MMPA was submitted for each cruise to another division within NOAA OPR, which subsequently issued the IHA. The MMPA procedures for issuance of an IHA involve publication of a proposed IHA notice in the **Federal Register** and solicitation of comments on that notice.

To reduce this apparent duplication of effort in environmental documentation and to address the potential for cumulative effects of

marine seismic research acoustic sources upon marine resources, NSF and the USGS have decided that a PEIS should be prepared. Preparing a PEIS for NSF and USGS marine seismic research serves several purposes. First, it provides a format for a comprehensive cumulative impacts analysis by taking a view of the planned marine seismic research activities as a whole. This is accomplished by assembling and analyzing the broadest range of direct, indirect, and cumulative impacts associated with all marine seismic research activities in addition to other past, present, and reasonably foreseeable projects in the region of influence. Furthermore, the collective analysis of representative project locations will provide a strong technical basis for a more global assessment of the potential cumulative impacts of NSF-funded and USGS marine seismic activities in the future.

A PEIS also sets up a framework for streamlining the preparation of subsequent environmental documents where needed for individual cruises. It is expected that time- and location-specific aspects, or similarly detailed technical information if necessary to evaluate unique impacts of specific cruises and projects, will be addressed in EIS supplements, tiered EAs, or other appropriate environmental documentation that would follow the publication of this Draft PEIS. Thus, while NSF-funded and USGS marine seismic research is reviewed under this Draft PEIS, the analysis of site-specific impacts from future cruises may be reserved for future analysis. Tiering of environmental documents in this manner makes subsequent documents of greater use and meaning to the public as NSF's and USGS's marine seismic research develops, without duplicating previous paperwork and environmental analyses. Finally, a PEIS enables the identification of an appropriate and prudent set of standard mitigation measures to be integrated into future NSF-funded and USGS cruises, which is a key goal of NSF and USGS.

Federal, state, local agencies, Native American Tribes and Nations, and interested parties are invited to be present or represented at the public hearings. Written comments can also be submitted anytime during the public hearings or during the 45-day public review period of the Draft PEIS. Comments must be submitted on or before November 22, 2010.

Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and

written, will become part of the public record on the Draft PEIS and will be responded to in the Final PEIS. Equal weight will be given to both oral and written statements. In the interest of time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a long statement is to be presented, it should be summarized at the public hearing with the full text submitted either in writing at the hearing or mailed to: Holly Smith, National Science Foundation, Division of Ocean Sciences, Room 725, 4201 Wilson Blvd., Arlington, VA 22230. In addition, comments may be submitted via e-mail at: [nepacomments@nsf.gov](mailto:nepacomments@nsf.gov). All written comments must be postmarked by November 22, 2010 to ensure they become part of the official record.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding the Draft PEIS contact: Holly Smith, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Suite 725, Arlington, VA 22230; telephone: (703) 292-8583; e-mail: [nepacomments@nsf.gov](mailto:nepacomments@nsf.gov).

Dated: October 5, 2010.

**Suzanne H. Plimpton,**

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2010-25378 Filed 10-7-10; 8:45 am]

BILLING CODE 7555-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. NRC-2010-0235]

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on August 3, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 39—Licenses and Radiation Safety Requirements for Well Logging.

3. *Current OMB approval number:* 3150-0130.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every 10 years. Reports are submitted as events occur.

6. *Who will be required or asked to report:* Applicants for and holders of specific licenses authorizing the use of licensed radioactive material for well logging.

7. *An estimate of the number of annual responses:* 2,827 (346 NRC Licensees + 2,481 Agreement State Licensees).

8. *The estimated number of annual respondents:* 278 (34 NRC Licensees + 244 Agreement State Licensees).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 60,296 hours (7,375 total NRC licensees hrs + 52,921 total Agreement State licensees hrs). The NRC licensees total burden is 7,375 hours (108 reporting hrs + 7,267 recordkeeping hrs). The Agreement State licensees total burden is 52,921 hours (767 reporting hrs + 52,154 recordkeeping hrs). The average burden per response for both NRC licensees and Agreement State licensees is 19.4 hours and the burden per recordkeeper is 214 hours.

10. *Abstract:* 10 CFR Part 39 establishes radiation safety requirements for the use of radioactive material in well logging operations. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by November 8, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150-0130), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to [Christine.J.Kymn@omb.eop.gov](mailto:Christine.J.Kymn@omb.eop.gov) or submitted by telephone at (202) 395-4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415-6258.

Dated at Rockville, Maryland, this 30th day of September 2010.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010-25406 Filed 10-7-10; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. NRC-2010-0234]

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on July 7, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 63, "Disposal of High-Level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain, Nevada."

3. *Current OMB approval number:* 3150-0199.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* One time.

6. *Who will be required or asked to report:* The State of Nevada, local governments, or affected Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of the potential high-level waste geologic repository site, or wishing to participate in a license application review for the potential geologic repository.

7. *An estimate of the number of annual responses:* 3.

8. *The estimated number of annual respondents:* 3.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 363 (An average of 40 hours per response for consultation requests, 80 hours per response for license application review participation proposals, and one hour per response for statements of representative authority).

10. *Abstract:* 10 CFR Part 63 requires the State of Nevada, local governments, or affected Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of the potential repository site, or wish to participate in a license application review for the potential repository. Representatives of the State of Nevada, local governments, or affected Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the State, local governments, and affected Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by November 8, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150-0199), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to [Christine.J.Kymn@omb.eop.gov](mailto:Christine.J.Kymn@omb.eop.gov) or submitted by telephone at (202) 395-4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415-6258.

Dated at Rockville, Maryland, this 30th day of September, 2010.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2010-25407 Filed 10-7-10; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2010-0097]**

### **Notice of Issuance of Regulatory Guide**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance and Availability of Regulatory Guide 1.54, Revision 2, "Service Level I, II, and III Protective Coatings Applied to Nuclear Power Plants."

#### **FOR FURTHER INFORMATION CONTACT:**

Bruce P. Lin, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 251-7653 or e-mail [Bruce.Lin@nrc.gov](mailto:Bruce.Lin@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 1.54, "Service Level I, II, and III Protective Coatings Applied to Nuclear Power Plants," was issued with a temporary identification as Draft Regulatory Guide, DG-1242. The NRC maintenance rule, Title 10 Code of Federal Regulations Section 50.65 (10 CFR 50.65), "Requirements for Monitoring the

Effectiveness of Maintenance at Nuclear Power Plants," includes in its scope safety-related structures, systems, and components (SSCs) that are relied on to remain functional during and following design-basis events with respect to specified functions and nonsafety-related SSCs (1) That are relied on to mitigate accidents or transients or are used in plant emergency operating procedures, (2) whose failure could prevent safety-related SSCs from fulfilling their safety-related functions, and (3) whose failure could cause a reactor scram or an actuation of a safety-related system. To the extent that protective coatings meet these criteria, these coatings are within the scope of the maintenance rule. The maintenance rule requires the licensee to monitor the effectiveness of maintenance for protective coatings within its scope (as discrete systems or components or as part of any SSC) or to demonstrate that their performance or condition of these coatings is being effectively controlled through the performance of appropriate preventive maintenance, in accordance with 10 CFR 50.65(a)(1) or 10 CFR 50.65(a)(2), as appropriate. Regulatory Guide (RG) 1.160, "Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," Revision 2, issued March 1997, provides further guidance.

#### **II. Further Information**

In March 2010, DG-1242 was published with a public comment period of 60 days from the issuance of the guide. The public comment period closed on May 12, 2010. The staff's responses to the comments received are located in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML102230359. Electronic copies of Regulatory Guide 1.54, Revision 2 are available through the NRC's public Web site under "Regulatory Guides" at <http://www.nrc.gov/reading-rm/doc-collections/>. The regulatory analysis may be found in ADAMS under Accession No. ML102230353.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4209, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 1st day of October, 2010.

For the Nuclear Regulatory Commission.

**Harriet Karagiannis,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2010-25405 Filed 10-7-10; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2010-0002]

**Sunshine Act Meeting**

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATES:** Week of October 11, 2010.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Additional Items To Be Considered**

*Week of October 11, 2010*

Thursday, October 14, 2010

9:25 a.m. Affirmation Session (Public Meeting) (Tentative).

a. *Final Rule:* 10 CFR Part 72 License and Certificate of Compliance Terms (RIN 3150-AI09) (Tentative).

This meeting will be Webcast live at the Web address—<http://www.nrc.gov>.

\* \* \* \* \*

\* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (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: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](mailto:darlene.wright@nrc.gov).

Dated: October 5, 2010.

**Rochelle C. Baval,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2010-25529 Filed 10-6-10; 4:15 pm]

**BILLING CODE 7590-01-P**

**POSTAL SERVICE**

**Sunshine Act Meeting; Board of Governors**

**Board Votes To Close September 30, 2010, Meeting**

In person and by telephone vote on September 30, 2010, a majority of the members contacted and voting, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting held in Washington, DC, via teleconference. The Board determined that no earlier public notice was possible.

**ITEMS CONSIDERED:**

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—discussion of prior agenda items and Board Governance.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at (202) 268-4800.

**Julie S. Moore,**

*Secretary.*

[FR Doc. 2010-25658 Filed 10-6-10; 4:15 pm]

**BILLING CODE 7710-12-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #12337 and #12338]

**Texas Disaster #TX-00364**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Texas dated 09/29/2010.

*Incident:* Remnants of Hurricane Karl.  
*Incident Period:* 09/18/2010 through 09/24/2010.

*Effective Date:* 09/29/2010.

*Physical Loan Application Deadline Date:* 11/29/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/29/2011.

**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:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Nueces,

*Contiguous Counties:* Texas:

Aransas, Jim Wells, Kleberg, San Patricio.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	5.000
Homeowners Without Credit Available Elsewhere .....	2.500
Businesses With Credit Available Elsewhere .....	6.000
Businesses Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations With Credit Available Elsewhere ...	3.625
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere .....	4.000
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 12337 8 and for economic injury is 12338 0.

The State which received an EIDL Declaration # is Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 29, 2010.  
**Karen G. Mills,**  
*Administrator.*  
 [FR Doc. 2010-25431 Filed 10-7-10; 8:45 am]  
**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**  
**[Disaster Declaration #12339 and #12340]**

**U.S. Virgin Islands Disaster #VI-00003**

**AGENCY:** U.S. Small Business Administration.  
**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of U.S. Virgin Islands (FEMA-1939-DR), dated 09/28/2010.

*Incident:* Hurricane Earl.  
*Incident Period:* 08/29/2010 through 08/31/2010.  
**DATES:** *Effective Date:* 09/28/2010.  
*Physical Loan Application Deadline Date:* 11/29/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/28/2011.

**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:** Notice is hereby given that as a result of the President's major disaster declaration on 09/28/2010, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Saint Croix, Saint John, Saint Thomas, including Water Island.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations With Credit Available Elsewhere ...	3.625
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000
<i>For Economic Injury:</i>	
Non-Profit Organizations Without Credit Available Elsewhere .....	3.000

The number assigned to this disaster for physical damage is 123398 and for economic injury is 123408.  
 (Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

**James E. Rivera,**  
*Associate Administrator for Disaster Assistance.*  
 [FR Doc. 2010-25424 Filed 10-7-10; 8:45 am]  
**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**  
**Interagency Task Force on Veterans Small Business Development Meeting**

**AGENCY:** U.S. Small Business Administration.  
**ACTION:** Notice of open Federal Interagency Task Force Meeting.

**SUMMARY:** The SBA is issuing this notice to announce the location, date, time, and agenda for the first public meeting of the Interagency Task Force on Veterans Small Business Development. The meeting will be open to the public.

**DATES:** Thursday, October 15, 2010, from 9 a.m. to 12 Noon in the Eisenhower Conference Room, Side A & B, located on the 2nd floor.

**ADDRESSES:** U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development. The Task Force is established pursuant to Executive Order 13540 and focused on coordinating the efforts of Federal agencies to improve capital, business development opportunities and pre-established Federal contracting goals for small business concerns owned and controlled by veterans (VOB's) and service-disabled veterans (SDVOSB'S). Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to "six focus areas": (1) Access to capital (loans, surety bonding and franchising); (2) Ensure achievement of pre-established contracting goals, including mentor protégé and matching with contracting opportunities; (3) Increase the integrity of certifications of status as a small business; (4) Reducing paperwork and administrative burdens in accessing business development and entrepreneurship opportunities; (5) Increasing and improving training and counseling services; and (6) Making

other improvements to support veteran's business development by the Federal government.

The Interagency Task Force on Veterans Small Business Development shall submit to the President, no later than one year after its first meeting, a report on the performance of its functions and any proposals developed pursuant to the "six focus areas" identified above. The purpose of the meeting is scheduled as a full Task Force meeting and to seek and obtain public comment from individuals and representatives of organizations regarding the areas of focus. The agenda will include presentations and discussion regarding the "six focus areas" of the Task Force.

**FOR FURTHER INFORMATION CONTACT:** The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Task Force must contact Raymond B. Snyder, by October 8, 2010, by e-mail in order to be placed on the agenda. Comments for the Record should be applicable to the "six focus areas" of the Task Force and emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be e-mailed to Raymond B. Snyder, Deputy Associate Administrator, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, e-mail address: [raymond.snyder@sba.gov](mailto:raymond.snyder@sba.gov).

Additionally, if you need accommodations because of a disability or require additional information, please contact Raymond B. Snyder, Designated Federal Official for the Task Force at (202) 205-6773; or by e-mail at: [raymond.snyder@sba.gov](mailto:raymond.snyder@sba.gov), SBA, Office of Veterans Business Development, 409 3rd Street, SW., Washington, DC 20416.

For more information, please visit our Web site at <http://www.sba.gov/vets>.

Dated: September 27, 2010.  
**Dan Jones,**  
*SBA Committee Management Officer.*  
 [FR Doc. 2010-25455 Filed 10-7-10; 8:45 am]  
**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION****[Disaster Declaration #12341 Disaster #ZZ-00006]****The Entire United States and U.S. Territories; Military Reservist Economic Injury Disaster Loan****AGENCY:** U.S. Small Business Administration.**ACTION:** Notice.**SUMMARY:** This is a notice of the Military Reservist Economic Injury Disaster Loan Program (MREIDL), dated 10/01/2010.**DATES:** *Effective Date:* 10/01/2010.  
*MREIDL Loan Application Deadline Date:* 1 year after the essential employees is discharged or released from active duty.**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, Suite 6050, Washington, DC 20416.**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of Public Law 106-50, the Veterans Entrepreneurship and Small Business Development Act of 1999, and the Military Reservist and Veteran Small Business Reauthorization Act of 2008, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan Program (MREIDL).

Effective 10/01/2010, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called—up to active duty during a period of military conflict or have received notice of an expected call-up, and those employees are essential to the success of the small business daily operations.

The purpose of the MREIDL program is to provide funds to an eligible small business to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called—up or expects to be called—up to active duty in his or her role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active duty. For information/applications contact 1-800-659-2955 or visit <http://www.sba.gov>.

Applications for the Military Reservist Economic Injury Disaster Loan Program may be filed at the above address.

The Interest Rate for eligible small businesses is 4.000.

The number assigned is 12341 0.

(Catalog of Federal Domestic Assistance Number 59002)

**James E. Rivera,***Associate Administrator for Disaster Assistance.*

[FR Doc. 2010-25436 Filed 10-7-10; 8:45 am]

**BILLING CODE 8025-01-P****SECURITIES AND EXCHANGE COMMISSION****Sunshine Act Meetings**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold Closed Meetings on Wednesday, October 13, 2010 at 11:30 a.m., and Thursday, October 14, 2010 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meetings in closed sessions.

The subject matter of the Closed Meeting scheduled for Wednesday, October 13, 2010 will be:

Institution of injunctive actions; Institution of administrative proceedings; and Other matters relating to enforcement proceedings.

The subject matter of the Closed Meeting scheduled for Thursday, October 14, 2010 will be:

Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings; An adjudicatory matter; and Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: October 6, 2010.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2010-25594 Filed 10-6-10; 4:15 pm]

**BILLING CODE 8011-01-P****SECURITIES AND EXCHANGE COMMISSION****[Release No. 34-63032; File No. SR-FINRA-2010-043]****Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Reinstitute Short Exempt Marking for Trade Reporting and OATS**

October 4, 2010.

**I. Introduction**On August 6, 2010, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend FINRA’s trade reporting and Order Audit Trail System (“OATS”) rules, including changes relating to recent amendments to SEC Regulation SHO. The proposed rule change was published for comment in the **Federal Register** on August 26, 2010.<sup>3</sup> The Commission received two comment letters on the proposal,<sup>4</sup> and a letter from FINRA responding to the comments.<sup>5</sup> This order approves the proposed rule change.**II. Description of the Proposed Rule Change**On February 26, 2010, the SEC adopted amendments to SEC Regulation SHO.<sup>6</sup> These amendments, among other<sup>1</sup> 15 U.S.C. 78s(b)(1).<sup>2</sup> 17 CFR 240.19b-4.<sup>3</sup> See Securities Exchange Act Release No. 62748 (Aug. 20, 2010), 75 FR 52574 (Aug. 26, 2010).<sup>4</sup> See Letter from Mike Wiesenber, dated September 8, 2010 (“Wiesenber Letter”); Letter from Manisha Kimmel, Executive Director, Financial Information Forum, to Elizabeth M. Murphy, Secretary, Commission, dated September 17, 2010 (“FIF Letter”).<sup>5</sup> See Letter from Brant K. Brown, Associate General Counsel, FINRA to Elizabeth M. Murphy, Secretary, Commission, dated September 28, 2010 (“FINRA Response Letter”).<sup>6</sup> See Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010).

things, implement a short sale circuit breaker for NMS stocks<sup>7</sup> triggered by a 10% or more decrease in the price of the security from such security's closing price as determined by the listing market for that security at the end of regular trading hours on the prior trading day. Once the circuit breaker is triggered, Regulation SHO, as amended, is designed to generally prohibit the execution or display of short sale orders of a covered security at a price that is less than or equal to the current national best bid for the remainder of the day and the following day ("short sale price test restriction"). In addition to the short sale price test restriction, the amendments to Regulation SHO reinstate a short sale exempt marking category by providing that a broker-dealer may mark certain qualifying sell orders "short exempt."<sup>8</sup>

Paragraphs (c) and (d) of Rule 201 of SEC Regulation SHO set forth the provisions pursuant to which an order may be marked "short exempt" once the circuit breaker has been triggered pursuant to paragraph (b)(3). These provisions include:

- Broker-dealer policies and procedures provision;
- Seller's delay in delivery;
- Odd lot transactions;
- Domestic arbitrage;
- International arbitrage;
- Over-allotments and lay-off sales;
- Riskless principal transactions; and
- Transactions on a volume-weighted average price basis (or "VWAP").<sup>9</sup>

In light of the reinstatement of the "short exempt" marking category, FINRA has proposed to amend its trade reporting rules applicable to over-the-counter trades in NMS stocks to reintroduce the short sale exempt category.<sup>10</sup> Specifically, FINRA has proposed that, for short sales in all NMS

stocks as defined in Rule 600(b)(47) of SEC Regulation NMS, members must indicate on trade reports submitted to FINRA if a transaction is "short sale exempt" (*i.e.*, if it is a short sale transaction in a "covered security" that may be marked "short exempt" pursuant to SEC Regulation SHO).<sup>11</sup>

Similarly, FINRA has proposed to amend its OATS rules to provide that, when an order is received or originated, members must record the designation of an order as a short sale exempt order if the order may be marked "short exempt" pursuant to SEC Regulation SHO.<sup>12</sup> FINRA also has proposed to require that members include the price on all route reports and a short exempt identifier, if applicable.<sup>13</sup>

FINRA has proposed certain additional amendments to its trade reporting rules, including those applicable to OTC Equity Securities, as defined in Rule 6420 (*i.e.*, non-NMS stocks) to clarify certain existing reporting requirements.<sup>14</sup> First, FINRA has proposed to clarify that the short sale indicator (and short sale exempt indicator, for NMS stocks) is required on reports of a "cross," as well as reports of a "sell."

Second, FINRA has proposed to codify the existing requirement that the information listed in the rule must be provided for each trade that is reported to FINRA. Today, trade report information can be provided in a single report, if the reporting member submits trade information for both sides of the trade, or it can be provided in a combination of reports, if the reporting member and contra side each submit their own trade information (as described more fully below), which will be codified in the rule upon implementation of the proposed

changes. For each trade reported to FINRA, members must indicate, among other things, whether the seller (either the reporting member or contra side, irrespective of whether the contra side is a member) is selling short or, upon implementation of the proposed changes, short exempt.

Unless the contra side will have an opportunity to provide its own trade information (*i.e.*, unless the contra side is a member using the trade comparison functionality of the facility),<sup>15</sup> the reporting member is responsible for providing complete and accurate information for both sides of the trade, including information from the contra side perspective such as sell short and, upon implementation of the proposed changes, sell short exempt, as applicable. Thus, the reporting member is responsible for satisfying any applicable contra side information requirements where: (1) The trade is with a customer or non-member, (2) the trade is with a member and is "locked in" pursuant to a give up agreement, or (3) the trade is reported as "tape only" (*i.e.*, for public dissemination purposes without clearing) or "non-tape, non-clearing." This reporting requirement is in effect today; however, the proposed rule change would make it an express requirement in the rule. If the contra side is a member and will have an opportunity to provide its own trade information, then the reporting member is responsible only for providing information from the reporting side perspective (and the contra side will provide information from the contra side perspective).

FINRA has stated that the implementation date will be November 10, 2010.

### III. Comment Letters

The Commission received two comment letters in response to the proposed rule change.<sup>16</sup> The Commission also received FINRA's response to comments.<sup>17</sup> The comment letters, as well as FINRA's response, are discussed below.

The FIF Letter raises a number of concerns regarding the proposal.

<sup>15</sup> The trade comparison functionality allows the contra party to accept or decline the trade information submitted by the reporting party and may only be used by a contra party that is a member. FINRA notes that the Alternative Display Facility, FINRA/Nasdaq TRF and ORF offer trade comparison functionality; the FINRA/NYSE TRF does not offer such functionality. Accordingly, reporting members are responsible for accurately and completely providing all information required under the rule for the contra side when reporting to the FINRA/NYSE TRF.

<sup>16</sup> See Wiesenber Letter and FIF Letter.

<sup>17</sup> See FINRA Response Letter. See also *supra* note 5.

<sup>7</sup> NMS stock means any NMS security other than an option. Rule 600(b)(46) of SEC Regulation NMS defines "NMS security" as any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options. See 17 CFR 242.600(b)(46).

<sup>8</sup> The Commission amended Rule 200(g) of Regulation SHO to add a "short exempt" marking requirement. The amendments to SEC Regulation SHO became effective on May 10, 2010 with a compliance date of November 10, 2010. See *supra* note 6.

<sup>9</sup> SEC staff has confirmed that members may use the existing ".W" modifier in connection with the VWAP exception of Rule 201(d)(7) of Regulation SHO. The use of the .W modifier would be in addition to the requirement to report the trade as short exempt.

<sup>10</sup> See FINRA Rules 6182 (Trade Reporting of Short Sales), 6282 (Alternative Display Facility), 6380A (FINRA/Nasdaq TRF), 6380B (FINRA/NYSE TRF), 7230A (FINRA/Nasdaq TRF), and 7230B (FINRA/NYSE TRF).

<sup>11</sup> FINRA previously required trade reports to indicate if a transaction was marked "short exempt"; however, these requirements were eliminated following the repeal of SEC Rule 10a-1. See Securities Exchange Act Release No. 56279 (August 17, 2007), 72 FR 48713 (August 24, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR-NASD-2007-047).

<sup>12</sup> See FINRA Rule 7440(b)(9).

<sup>13</sup> Whenever a member transmits an order to another member, ECN, non-member or national securities exchange for handling or execution, the routing member is responsible for recording and reporting a route report to OATS. Under the proposal, route reports would be required to include the price at which the order was routed, which may be different from the price received from the customer, and whether the routed order is short exempt. The short exempt identifier is important for purposes of route reports because certain short sale orders will be eligible to be marked exempt solely as a result of the timing and price of the routed order (See Rule 201(c) of SEC Regulation SHO).

<sup>14</sup> See FINRA Rules 6282, 6380A, 6380B, 6622, 7230A, 7230B and 7330.

Specifically, the FIF Letter raises concerns regarding the November 10, 2010 implementation date for the proposed rule changes given other regulatory initiatives with similar implementation timeframes. In response to these concerns, FINRA points out that the proposed amendments are to facilitate its surveillance efforts concerning firms' compliance with amendments to Regulation SHO, which becomes effective November 10, 2010. FINRA believes that it is necessary that the implementation date of the proposed amendments coincide with the implementation date of the amendments to Regulation SHO.

The FIF Letter also raises concerns with the amount of time allowed for testing prior to implementation of the proposed amendments. In response, FINRA has represented that it has moved up the testing timetable to allow firms to begin testing on October 11th, rather than on October 20th as initially proposed.

The FIF Letter expresses concerns regarding the complexity of the proposed changes and cites the creation of certain route reports for post trade agency allocation as an example of such complexity. FINRA explains that the requirement to provide the price of a routed order on route reports does not change any of the reporting requirements for orders handled on an agency average price or post trade allocation basis. FINRA also states that it has published a new FAQ on its OATS Web site on this issue.

Lastly, the FIF Letter indicates that there may be confusion regarding the proposed November 10th implementation date of the proposed rule change and the November 8th date when the changes will be available in the OATS production environment.<sup>18</sup> FINRA clarifies that although the OATS field format changes will be placed in the production environment on November 8th, they will not be required to be populated until the proposed November 10th implementation date of the proposed rule change. FINRA also states that it has published a new FAQ on its OATS Web site to this effect.

The Wiesenber Letter raises an issue, not with respect to one of the proposed amendments in the proposed rule change, rather with respect to one of the

proposed requirements in FINRA's OATS Reporting Technical Specifications<sup>19</sup> related to the proposed rule change, the addition of the Routed Order Type Indicator. The commenter believes that the proposed requirement "can be determined from [other OATS] information supplied" by the reporting member, "serve[s] no purpose" and "provides no useful additional information."<sup>20</sup> The commenter also generally questions whether such requirement is consistent with the Act and urges FINRA to reconsider the proposed requirement in FINRA's OATS Reporting Technical Specifications and re-file the proposed rule change<sup>21</sup> or, in the alternative, that the Commission reject the proposal. FINRA disagrees with the commenter and responds that the Routed Order Type Indicator "helps FINRA to validate whether a price must be included on a Route Report, particularly since the order type of a route may not be the same as the order type of the parent order received from the firm."<sup>22</sup>

#### IV. Discussion and Commission's Findings

After careful review of the proposed rule change, the comment letters received and the FINRA Response Letter, the Commission believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.<sup>23</sup> In particular, the Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

With regard to the comments received, the Commission believes that FINRA has adequately responded to the commenters' concerns. Additionally, the Commission agrees with FINRA and believes that the proposed rule change

<sup>19</sup> FINRA's OATS Reporting Technical Specifications outline detailed reporting requirements concerning the OATS rules, including, among other things, providing firms with record and file formats and transmission requirements.

<sup>20</sup> See Wiesenber Letter.

<sup>21</sup> The commenter's suggestion that FINRA re-file the proposed rule change would not address the addition of the Routed Order Type Indicator, as such requirement is contained in FINRA's OATS Reporting Technical Specifications, not the proposed rule change.

<sup>22</sup> See FINRA Response Letter.

<sup>23</sup> In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

to amend FINRA's trade reporting and OATS rules, including changes relating to recent amendments to SEC Regulation SHO, will enhance FINRA's surveillance for member compliance, including with SEC Regulation SHO.

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act.

#### V. Conclusion

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change (File No. SR-FINRA-2010-043) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-25331 Filed 10-7-10; 8:45 am]

BILLING CODE 8011-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63034; File No. SR-Phlx-2010-124]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX LLC To Send Certain Information Over the Specialized Quote Feed

October 4, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on September 22, 2010, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to establish a new non-fee liable administrative data feed. The text of the proposed rule change is available at the Exchange, the Commission's Web site at <http://>

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>18</sup> The FIF Letter also raises concerns regarding the ISO Indicator on route reports. FINRA notes that firms are already required to indicate on route reports whether an order is routed as an Intermarket Sweep Order. FINRA also points out that the ISO indicator is not one of the proposed amendments in the proposed rule change and therefore should not affect the Commission's consideration of the proposal.

[www.sec.gov](http://www.sec.gov), the Commission's Public Reference Room, and <http://www.nasdaq.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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

SQF is an interface that allows specialists, streaming quote traders and remote streaming quote traders to connect and send quotes into Phlx XL.<sup>4</sup> SQF 5.0, the current version, today is the sole interface used by market makers for sending quotes to the Exchange.<sup>5</sup> Presently, quoting participants (users of SQF 5.0) do not receive execution reports that happen against their quote or other information that is relevant to their quoting application over SQF 5.0. The Exchange is proposing to provide additional information than what is currently provided by SQF 5.0 to quoting participants over SQF and that the Exchange believes is relevant to their quoting application; the new version will be called SQF 6.0.<sup>6</sup>

SQF 6.0 will increase efficiency for interested participants by allowing them to access in a single feed available to all participants, rather than through

<sup>4</sup> See Securities Exchange Act Release No. 61878 (April 8, 2010), 75 FR 20023 (April 16, 2010) (SR-Phlx-2010-48). SQF operates as an interface today, receiving quotations from quoting participants and sending out messages related to a particular participant's quotes.

<sup>5</sup> Participants receive access through payment of a port fee.

<sup>6</sup> Although SQF is not new, Phlx has not made a SQF-related filing before because the Exchange believes that such a filing was not required previously, as SQF operated as an interface rather than a data feed. However, in conjunction with the new Commission guidance for data feed changes and in light of the changes in SQF 6.0 that involve sending non-participant-specific messages, the Exchange believes that it is now required to submit such a filing. Also, the Exchange has submitted previous filings that reference SQF. See e.g., Securities Exchange Act Release Nos. 61878 (April 8, 2010), 75 FR 20023 (April 16, 2010) (SR-Phlx-2010-48); and 61665 (March 5, 2010), 75 FR 11967 (March 12, 2010) (SR-Phlx-2010-25).

accessing multiple feeds, information such as execution reports and other relevant data. In order for participants to access all of this information currently or for any that do not use SQF 6.0 in the future, they must rely on a risk management feed and the TOPO/TOPO Plus Orders Exchange interfaces. Non quoting firms that would like to receive the relevant information available over SQF will be allowed to connect to the SQF interface, but not send quotes.

The set of data to be offered over this data feed is administrative in nature or is used to attract liquidity to the Exchange in response to an auction. The Exchange believes the data included in this feed is necessary for participants who have written systems to interface with the Exchange in the case of administrative messages or information regarding auctions and used to attract liquidity.

Participants who have written interfaces to the Phlx system would use the administrative data to determine the current state of the trading system. For example, this data would show which symbols are trading on the Phlx, the current state of an options symbol (i.e., open for trading, trading, halted or closed from trading), as well as similar information regarding complex order strategies. This administrative data will also include the definition of complex order strategies. All of this information is vital to a participant's quoting application and by including this information on the interface used for quoting, participants can streamline their respective system architectures.

Phlx holds auctions throughout the day to open trading in an option and following a trading halt in the option,<sup>7</sup> following a market exhaust event<sup>8</sup> or quote exhaust event,<sup>9</sup> and for complex orders<sup>10</sup> and will in the future hold PIXL Price Improvement Auctions.<sup>11</sup> During these auction events, the Exchange advertises liquidity it has available for immediate execution, but will only have available until the conclusion of the auction. These auction notifications are available on other data feeds and are made available to all exchange participants. They are being added to SQF 6.0 for convenience purposes so that market participants utilizing SQF 6.0 have an additional means to access the notifications directly impacting their quoting behavior and are not required to take

<sup>7</sup> See Phlx Rule 1017.

<sup>8</sup> See Phlx Rule 1082(a)(ii)(B)(4).

<sup>9</sup> See Phlx Rule 1082(a)(ii)(B)(3).

<sup>10</sup> See Phlx Rule 1080.08(e).

<sup>11</sup> See Securities Exchange Act Release No. 62678 (August 10, 2010), 75 FR 50021 (August 16, 2010) (SR-Phlx-2010-108).

other feeds simply to have access to notifications.

A participant's quoting application can receive these notifications over the same interface it sends quotes to the Exchange, SQF, and can now use the data to respond to auctions quickly and efficiently. This data is not sent as a quote to the market because it represents interest that is not immediately executable or, in the case of complex orders, represents a complex strategy which is not disseminated by the Options Price Reporting Authority.

Data proposed for SQF 6.0 will initially include the following:

- (1) Options Auction Notifications (e.g., opening imbalance, market exhaust, PIXL<sup>12</sup> or other information currently provided on SQF 5.0);
- (2) Options Symbol Directory Messages (currently provided on SQF 5.0);
- (3) System Event Messages (e.g., start of messages, start of system hours, start of quoting, start of opening);
- (4) Complex Order Strategy Auction Notifications (COLA);
- (5) Complex Order Strategy messages;
- (6) Option Trading Action Messages (e.g., halts, resumes); and
- (7) Complex Strategy Trading Action Message (e.g., halts, resumes).

The Exchange currently provides Exchange members with execution reports through two interfaces. Execution reports are made available to all exchange participants on a Risk Management Feed known as "RMP," as well as an interface replacing RMP known as the Clearing Trade Interface or "CTI."<sup>13</sup> An additional difference between SQF 5.0 and SQF 6.0 will be the inclusion of execution report messages on SQF 6.0 where none are currently sent over SQF 5.0 today. Execution reports are being added to SQF 6.0 for convenience purposes so that market participants utilizing SQF 6.0 have an additional means to receive execution reports that are relevant to their quoting application and are not required to take and integrate either of these feeds simply to get execution reports. These messages are sent to the participants when the quote they entered over the SQF interface executes.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

<sup>12</sup> If PIXL is not operative at the time this filing becomes operative, it will be included once PIXL does become operative.

<sup>13</sup> See Securities Exchange Act Release No. 62155 (May 24, 2010), 75 FR 30081 (May 28, 2010) (SR-Phlx-2010-67). The Exchange assesses its members a Real-time Risk Management Fee of \$.003 per contract for receiving this information. The Exchange is not proposing to amend this fee.

of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that this proposal is in keeping with those principles by providing data that is administrative in nature or that is used to attract liquidity to the Exchange in response to an auction.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6)<sup>17</sup> thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay and designate the proposed rule change to become operative during the week of October 11, 2010. The Exchange has represented that it is important to the Exchange's

internal technology roll-out to be able to have SQF 6.0 in place by this time in order for other technological plans to be implemented. The Exchange has also represented that the proposed rule change is a non-controversial system change to data and would not affect the execution of trades. The Exchange has argued that the prompt implementation of the proposal would extend the benefits and new features of SQF 6.0 to its users promptly. On the basis of the Exchange's representations, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change as operative on October 11, 2010.<sup>18</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-124 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2010-124. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 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. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2010-124 and should be submitted on or before October 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-25395 Filed 10-7-10; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63028; File No. SR-NASDAQ-2010-099]

### **Self-Regulatory Organizations; NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change To Adopt a Definition of Professional and Require That All Professional Orders Be Appropriately Marked**

October 1, 2010.

#### **I. Introduction**

On August 6, 2010, The NASDAQ Stock Market ("NASDAQ"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Chapter I, Section 1 (Definitions) of the rules of the Nasdaq Options Market ("NOM") to adopt a definition of "Professional" and require that all Professional orders be appropriately marked by NOM

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Participants (“NOM Rules”). The proposed rule change was published for comment in the **Federal Register** on August 20, 2010.<sup>3</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

## II. Description

Under the proposal, new Chapter I, Section 1(a)(48) will state that the term “Professional” means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Participant<sup>4</sup> or a Public Customer<sup>5</sup> may, without limitation, be a Professional. Moreover, in order to properly represent orders entered on the Exchange according to the new definition, a Participant will be required to appropriately mark all Professional orders.<sup>6</sup> To comply with this requirement, Participants will be required to review their Public Customers’ activity on at least a quarterly basis to determine whether orders that are not for the account of a broker-dealer should be represented as Professional orders.<sup>7</sup> The Exchange will issue a notice to Participants via OTA or ORA outlining the procedures for the implementation of the proposal.

The professional order designation rule will apply to NOM members,

<sup>3</sup> See Securities Exchange Act Release No. 62724 (August 16, 2010), 75 FR 51509 (“Notice”).

<sup>4</sup> A member of NOM is known as a Participant. Some participants are also members of other options exchanges such as, for example, International Securities Exchange, LLC (“ISE”), Chicago Board Options Exchange, Incorporated (“CBOE”), and NASDAQ OMX PHILX LLC (“Phlx”). See Notice, *supra* note 3. See also Chapter I, Section 1(a)(40) of the NOM Rules.

<sup>5</sup> Public Customer is defined in Chapter I, Section 1(a)(48) as a person that is not a broker or dealer in securities.

<sup>6</sup> The Exchange intends to require Participants to identify Professional orders submitted electronically by identifying them in the customer type field, and will notify Participants via an Options Trader Alert (“OTA”) or Options Regulatory Alert (“ORA”) regarding this requirement.

<sup>7</sup> According to NASDAQ, Participants will be required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five business days after the end of each calendar quarter. While Participants will only be required to review their accounts on a quarterly basis, if during a quarter NOM identifies a customer for which orders are being represented as other than Professional orders but that has averaged more than 390 orders per day during a month, NOM will notify the Participant and the Participant will be required to change the manner in which it is representing the customer’s orders within five business days. This is similar to the process of other options exchanges that have adopted a Professional designation. See, e.g., Securities Exchange Act Release No. 61802 (March 30, 2010), 75 FR 17193 (April 5, 2010) (SR-Phlx-2010-05).

including NASDAQ Options Services LLC (“NOS”). NOS is NOM’s exclusive order router for all orders that come through the Exchange.<sup>8</sup> Under the proposal, NOS, a member of several exchanges that have rules requiring a Professional designation, will be able to route Professional orders to those options exchanges that require Professional orders to be designated as such.<sup>9</sup>

The Professional definition will not revise the Exchange’s price/time order entry (priority) rules. For example, unlike other options exchanges with the Professional designation, the proposed rule change does not affect on NOM the priority of orders designated as Professional. Instead, the proposal is intended to make certain that Participants mark Professional orders properly regardless of whether the order is entered on NOM or routed to another options exchange that has the Professional designation. Moreover, when the proposed Professional designation is in place, NOM will be able to accept orders that are marked as Professional.<sup>10</sup>

The designation of an order as Professional will not result in any different treatment of such orders for purposes of NOM rules concerning away market protection. That is, all non-broker-dealer orders, including those orders that meet the definition of Professional, will continue to be treated equally for purposes of NOM’s away market protection rules.<sup>11</sup>

## III. Discussion and Commission’s Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>12</sup> In particular, the Commission finds that the proposed rule change is consistent with Section

<sup>8</sup> See Notice, *supra* note 3.

<sup>9</sup> The Professional definition proposed by NOM comports with the Professional designation that has been implemented by Phlx, CBOE, ISE, and NYSE Amex LLC (“NYSE Amex”). See Securities Exchange Act Release Nos. 61802 (March 30, 2010), 75 FR 17193 (April 5, 2010) (SR-Phlx-2010-05); 61198 (December 17, 2009), 74 FR 68880 (December 29, 2009) (SR-CBOE-2009-078); 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (SR-ISE-2006-26); and 61818 (March 31, 2010), 75 FR 17457 (April 6, 2010) (SR-NYSEAmex-2010-18).

<sup>10</sup> According to NASDAQ, NOM only accepts orders that are marked as customer, firm, market maker, or away market maker orders.

<sup>11</sup> See, e.g., Chapter VI, Section 11 and Chapter XII.

<sup>12</sup> In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that NOM’s proposed definition of Professional and requirement that Professional orders be properly marked are consistent with the rules of other exchanges relating to Professional orders, which previously were approved by the Commission.<sup>13</sup> The Commission notes that the proposal will not amend NOM’s price/time order entry (priority) rules with respect to the treatment of orders submitted to NOM. The proposal in effect allows NOM to accept orders marked as Professional and, if necessary to comply with its order protection rules, to route them via NOS to an away market that maintains the Professional order designation, in accordance with that exchange’s order marking requirements. The Commission believes that conforming NOM’s rules to those of the other exchanges that have the Professional order designation will reduce disparate rules in this area and may help reduce regulatory arbitrage.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-NASDAQ-2010-099) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-25420 Filed 10-7-10; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF STATE

### [Public Notice 7200]

### 60-Day Notice of Proposed Information Collection: Form DS-3057, Medical Clearance Update, OMB 1405-0131

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the

<sup>13</sup> See *supra* note 9.

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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 Clearance Update.
- OMB Control Number: 1405-0131.
- Type of Request: Extension of Currently Approved Collection.
- Originating Office: Office of Medical Services, M/MED/C/MC.
- Form Number: DS-3057.
- Respondents: Foreign Service Officers, State Department Employees, Other Government Employees and Family Members.
- Estimated Number of Respondents: 9,800 per year.
- Estimated Number of Responses: 9,800 per year.
- Average Hours per Response: 0.5 hours per response.
- Total Estimated Burden: 4,900 hours.
- Frequency: On occasion.
- Obligation to Respond: Mandatory.

**DATES:** The Department will accept comments from the public up to 60 days from October 8, 2010.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail:* [mahoneybj@state.gov](mailto:mahoneybj@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 Clearances, SA-15 Room 400, 1800 North Kent St., Rosslyn, VA. 22209.
- *Fax:* 703-875-4850.

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 Barbara Mahoney, Department of State, Office of Medical Clearances, SA-15 Room 400, 1800 North Kent St., Rosslyn, VA. 22209. FAX 703-875-4850.

**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-3057 is designed to collect medical information to provide medical providers with current and adequate information to base decisions on whether a federal employee and family members will have sufficient medical resources at a diplomatic mission abroad to maintain the health and fitness of the individual and family members.

**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 28, 2010.

**Joseph A. Kenny,**

*Executive Director, Department of State, Office of Medical Services.*

[FR Doc. 2010-25430 Filed 10-7-10; 8:45 am]

**BILLING CODE 4710-36-P**

**DEPARTMENT OF STATE**

**[Public Notice 7199]**

**Notice of Public Meeting**

**SUMMARY:** The U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs (OES), Office of Marine Conservation announces that the Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission will meet on October 12, 2010.

**DATES:** The meeting will take place via teleconference on October 12th, 2010, from 2 p.m. to 4 p.m. Eastern time.

*Meeting Details:* The teleconference call-in number is toll-free 1-888-989-5162, passcode 32752, and will have a limited number of lines for members of the public to access from anywhere in the United States. Callers will hear instructions for using the passcode and joining the call after dialing the toll-free number noted. Members of the public wishing to participate in the teleconference must contact the OES officer in charge as noted in the **FOR FURTHER INFORMATION CONTACT** section below no later than close of business on Friday, October 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** John Field, Office of Marine Conservation, OES, Room 2758, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Telephone (202) 647-3263, fax (202) 736-7350, e-mail [fieldjd@state.gov](mailto:fieldjd@state.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the requirements of the Federal Advisory Committee Act, notice is given that the Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission (NPAFC) will meet on the date and time noted above. The panel consists of members from the states of Alaska and Washington who represent the broad range of fishing and conservation interests in anadromous and ecologically related species in the North Pacific. Certain members also represent relevant state and regional authorities. The panel was established in 1992 to advise the U.S. Section of the NPAFC on research needs and priorities for anadromous species, such as salmon, and ecologically related species occurring in the high seas of the North Pacific Ocean. The upcoming Panel meeting will focus on two major topics:

(1) Review of the agenda for the 2010 annual meeting of the NPAFC (Nov. 1-5, 2010; Busan, Republic of Korea); and (2) logistics for the U.S. Section at the NPAFC meeting. Background material is available from the point of contact noted above and by visiting <http://www.npafc.org>.

This announcement will appear in the **Federal Register** less than 15 days prior to the meeting. The Department of State finds that there is an exceptional circumstance in that this advisory committee meeting must be held on October 12th in order to adequately prepare for the NPAFC to be convened in Korea on November 1st, as well as the necessity of preparing the U.S. Section.

Dated: October 1, 2010.

**William Gibbons-Fly,**

*Director, Office of Marine Conservation, Department of State.*

[FR Doc. 2010-25432 Filed 10-7-10; 8:45 am]

**BILLING CODE 4710-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

**[Docket No. AB 330 (Sub-No. 4X)]**

**Otter Tail Valley Railroad Company, Inc.—Abandonment Exemption—in Otter Tail County, MN**

Otter Tail Valley Railroad Company, Inc. (OTVR) filed a verified notice of exemption under 49 CFR part 1152

subpart F—*Exempt Abandonments* to abandon a 0.822-mile line of railroad between milepost 48.422 near Fergus Falls, and milepost 47.60 near Hoot Lake, in Otter Tail County, Minn.<sup>1</sup> The line traverses United States Postal Service Zip Code 56537.

OTVR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 10, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 18, 2010. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 28, 2010, with the Surface Transportation Board, 395 E

<sup>1</sup> OTVR states that once abandonment authority has been approved, Otter Tail Power Corporation, one of its largest shippers, has expressed an interest in purchasing a portion of the right-of-way.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to OTVR's representative: Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

OTVR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 15, 2010. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), OTVR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by OTVR's filing of a notice of consummation by October 8, 2011, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 5, 2010.

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2010–25386 Filed 10–7–10; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Release Certain Properties From All Terms, Conditions, Reservations and Restrictions of a Quitclaim Deed Agreement Between Palm Beach County and the Federal Aviation Administration for the Palm Beach International Airport, West Palm Beach, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Request for Public Comment.

**SUMMARY:** The FAA hereby provides notice of intent to release certain airport properties 15.83 acres at the Palm Beach International Airport, West Palm Beach, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the Palm Beach County, dated September 11, 1948. The release of property will allow Palm Beach County to dispose of the property for other than aeronautical purposes. The property is located on the northwest corner of Congress Avenue and Gun Club Road in Palm Beach County, Florida. The parcel is currently designated as non-aeronautical use. The property will be released of its federal obligations to swap the land for another County-owned parcel. The 16.92 acre parcel to be acquired is located in Airport Center at the northeast corner of Australian Avenue and Southern Boulevard in Palm Beach County, Florida. This parcel is adjacent to airport property and is currently occupied by a hotel. The fair market value of the Gun Club Road parcel has been determined by appraisal to be \$5,875,000. The fair market value of the Australian Avenue parcel has been determined by appraisal to be \$5,785,000.

Documents reflecting the Sponsor's request are available, by appointment only for inspection at the Palm Beach International Airport and the FAA Airports District Office.

**SUPPLEMENTARY INFORMATION:** Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the F to provide an opportunity for public notice and comment prior to the “waiver” or “modification” of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

**DATES:** Comments are due on or before November 8, 2010.

**ADDRESSES:** Documents are available for review at the Palm Beach International Airport, and the FR Airports District Office, 5950 Hazeltine National Drive,

Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822-5024.

**FOR FURTHER INFORMATION CONTACT:**

Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822-5024.

**W. Dean Stringer,**

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2010-25213 Filed 10-7-10; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF THE TREASURY**

**Departmental Offices; Proposed Collections; Comment Requests**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of an information collection that is to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital Form S, Purchases and Sales of Long-term Securities by Foreigners. The Current Actions below clarify the instructions and improve the column titles on the Form S.

**DATES:** Written comments should be received on or before December 7, 2010 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail ([comments2TIC@do.treas.gov](mailto:comments2TIC@do.treas.gov)), FAX (202-622-2009) or telephone (202-622-1276).

**FOR FURTHER INFORMATION CONTACT:**

Copies of the proposed forms and instructions are available on the Treasury's TIC Forms webpage, <http://www.treas.gov/tic/forms.html>. Requests for additional information should be directed to Mr. Wolkow.

**SUPPLEMENTARY INFORMATION:**

*Title:* Treasury International Capital Form S, Purchases and Sales of Long-term Securities by Foreigners.

*OMB Control Number:* 1505-0001.  
*Abstract:* Form S is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Form S is a monthly report used to cover transactions in long-term marketable securities undertaken directly with foreigners by banks, other depository institutions, brokers, dealers, underwriting groups, funds and other individuals and institutions. This information will be used by the U.S. Government in the formulation of international financial and monetary policies and for the preparation of the U.S. balance of payments accounts and the U.S. international investment position.

*Current Actions:* (a) In the title for columns 7 and 8, the word STOCKS will be replaced by U.S. EQUITY; and in the title for columns 11 and 12, the words FOREIGN STOCKS will be replaced by FOREIGN EQUITY. The purpose of this action is to clarify the type of data collected in columns 7, 8, 11 and 12 of the form. There is no change in the reporting requirements; for example the column-by-column instructions for those four columns already use the term "equity". This action also makes the terms on the Form S more consistent with the terms on other TIC forms that report data on securities, including the annual reports. This action will not affect the reporting burden of the Form S; (b) In the title of columns 5 and 6, "U.S." will be inserted at the beginning so the title reads "U.S. CORPORATE AND OTHER BONDS". This action will clarify the type of data collected and will neither change the reporting requirements nor affect the reporting burden; (c) The unnecessary word "foreign" will be deleted from the titles of columns 7 and 8 in the Memorandum section on the last page of the form. That action will bring those two titles into conformity with the other column-pairs in the form; (d) The instructions will be revised by expanding and clarifying the old section called Determining Residency. The revised section is called "Reporting the Location of Foreign Counterparties" in the General Instructions. The revised language is consistent with the same guidance in other TIC reports; (e) The instructions will be revised by expanding and clarifying the section on REPORTING OF FUND SHARES (in the Reportable Items section of the General Instructions). The revised language includes examples and is consistent with the same guidance in other TIC

reports; (f) The instructions (the Reportable Items section of the General Instructions) will be revised in accordance with (a) above so that any instruction to record data in the columns for "stocks" is changed to an instruction to record data in the column for "equities"; (g) The instructions (the Other Statistical Reports section of the Introduction) will be revised by adding a paragraph on the proposed new SLT form; (h) The instructions will be revised so that the sections in the Introduction and the General Instructions are arranged to be more consistent with the organization of the instructions of other TIC reports; (i) These changes will be effective beginning with the reports as of March 31, 2011.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Business or other for-profit organizations. Form S (1505-0001)

*Estimated Number of Respondents:* 254.

*Estimated Average Time per Respondent:* Six hours per respondent per filing. This estimate includes 0.4 hours for the Current Actions proposed above. The estimated average time per respondent varies from 10.8 hours for the approximately 30 major reporters to 5.4 hours for the other reporters.

*Estimated Total Annual Burden Hours:* 18,400 hours, based on 12 reporting periods per year.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form S is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

**Dwight Wolkow,**

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2010-25415 Filed 10-7-10; 8:45 am]

**BILLING CODE 4810-25-P**

**DEPARTMENT OF VETERANS  
AFFAIRS****Advisory Committee on Former  
Prisoners of War; Notice of Meeting**

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the Advisory Committee on Former Prisoners of War has scheduled a meeting on October 25-27, 2010, in the Reynolds Conference Suite at Alexander Hall, 718 Baylor Avenue, Baylor University, Waco, Texas. The meeting will be held each day from 9 a.m. to 4 p.m.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the needs of such veterans for compensation, health care, and rehabilitation.

On the morning of October 25, the Committee will hear from its Chairman and the new Director, Compensation and Pension Service. They will receive briefings on the Employee Education System, Veterans Health Initiative and Robert E. Mitchell Center. In the afternoon, the Committee will then convene a closed session in order to protect patient privacy as the Committee tours the Waco VA Regional Office. On the morning of October 26, the Committee will convene a closed session as the Committee tours the Temple VA Medical Center. Closing portions of these sessions is in accordance with 5 U.S.C. 552b(c)(6). In the afternoon, the Committee will resume in open session and hear presentations from the Assistant Chief of Staff, Clinical Support and Community Relations, and Waco Regional Office POW Coordinator. On October 27, the Committee will discuss

their 2010 recommendations and draft of their final Committee report.

Public comments will be received at 2 p.m. on October 26. Individuals who speak are invited to submit 1-2 page summaries of their comments at the end of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Mr. Jim Adams, Executive Assistant, Compensation and Pension Service, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or e-mail at [jim.adams1@va.gov](mailto:jim.adams1@va.gov). Any member of the public seeking additional information should contact Mr. Adams at (202) 461-9659.

Dated: October 4, 2010.

By Direction of the Secretary

**Vivian Drake,**

*Acting Committee Management Officer.*

[FR Doc. 2010-25368 Filed 10-7-10; 8:45 am]

**BILLING CODE P**

# Reader Aids

## Federal Register

Vol. 75, No. 195

Friday, October 8, 2010

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**Reference questions.** Send questions and comments about the Federal Register system to: [fedreg.info@nara.gov](mailto: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/>.

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**LIST OF PUBLIC LAWS**


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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 "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

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GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

**H.R. 1517/P.L. 111-252**

To allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service. (Oct. 5, 2010; 124 Stat. 2632)

**S. 846/P.L. 111-253**

To award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty. (Oct. 5, 2010; 124 Stat. 2635)

**S. 1055/P.L. 111-254**

To grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II. (Oct. 5, 2010; 124 Stat. 2637)

**S. 1674/P.L. 111-255**

Improving Access to Clinical Trials Act of 2009 (Oct. 5, 2010; 124 Stat. 2640)

**S. 2781/P.L. 111-256**

Rosa's Law (Oct. 5, 2010; 124 Stat. 2643)

**S. 3717/P.L. 111-257**

To amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code,

(commonly referred to as the Freedom of Information Act), and for other purposes. (Oct. 5, 2010; 124 Stat. 2646)

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